

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GEORGE HUMPHRYS, Individually ) Case No. 1:08-CV-2912-PAC  
And On Behalf of All Others Similarly Situated, )  
)  
)  
)

Plaintiff, )  
)  
)  
)

v. )  
)  
)

TD Ameritrade Holding Corporation, and TD )  
Ameritrade, Inc., f.k.a. TD Waterhouse Investor )  
Services, Inc., )

Defendants.

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**DECLARATION OF JONATHAN K. LEVINE  
IN SUPPORT OF THE MOTION OF JANET JONES, AS TRUSTEE OF THE JONES  
LIVING TRUST DATED 1/14/2002, MICHAEL JONES, AND MICHAEL McKAY FOR  
APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF SELECTION OF  
COUNSEL**

I, Jonathan K. Levine, under penalty of perjury, hereby declare:

1. I am a partner of Girard Gibbs LLP and am admitted to practice in the Southern District of New York. I submit this declaration in support of the Motion of Janet Jones, as trustee of the Jones Living Trust Dated 1/14/2002, Michael Jones, and Michael McKay, for Appointment as Lead Plaintiff and Approval of Selection of Counsel.

2. Attached hereto as Exhibit A is a true and correct copy of the PSLRA notice published by counsel for plaintiff in the first-filed action on Business Wire on March 19, 2008.

3. Attached hereto as Exhibit B is a true and correct copy of the Certification of Proposed Lead Plaintiff Pursuant to the Federal Securities Laws of Janet Jones, as trustee of the Jones Living Trust Dated 1/14/2002.

4. Attached hereto as Exhibit C is a true and correct copy of the Certification of Proposed Lead Plaintiff Pursuant to the Federal Securities Laws of Michael Jones.

5. Attached hereto as Exhibit D is a true and correct copy of the Certification of Proposed Lead Plaintiff Pursuant to the Federal Securities Laws of Michael McKay.

6. Attached hereto as Exhibit E is the firm resume of Girard Gibbs LLP.

7. Attached hereto as Exhibit F is the firm resume of Stueve Siegel Hanson LLP.

8. Attached hereto as Exhibit G is the firm resume of Seeger Weiss LLP.

9. Attached hereto as Exhibit H are analyses of Movants' transactions in auction rate securities through TD Ameritrade during the Class Period.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 19th day of May, 2008 at San Francisco, California.

/s/ Jonathan K. Levine  
Jonathan K. Levine

**CERTIFICATE OF SERVICE**

I, Angeline C. Ellis, hereby certify that on May 19, 2008, I filed the following document(s):

**DECLARATION OF JONATHAN K. LEVINE  
IN SUPPORT OF THE MOTION OF JANET JONES, AS TRUSTEE OF THE JONES  
LIVING TRUST DATED 1/14/2002, MICHAEL JONES, AND MICHAEL McKAY FOR  
APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF SELECTION OF  
COUNSEL**

By ECF (Electronic Case Filing): I e-filed the above-detailed document utilizing the United States District Court, Southern District of New York's mandated ECF service on May 19, 2008. Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the document(s) upon confirmation of e-filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, CA May 19, 2008

\_\_\_\_\_  
/S/ Angeline C. Ellis

# **EXHIBIT A**

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Press Release

Source: Girard Gibbs LLP

# Girard Gibbs LLP Announces Class Action Lawsuit Filed Against TD Ameritrade Holding Corporation (Nasdaq: AMTD)

Wednesday March 19, 8:05 pm ET

SAN FRANCISCO--(BUSINESS WIRE)--The law firm of Girard Gibbs LLP (<http://www.girardgibbs.com>) announces that it has filed a class action lawsuit on behalf of persons who purchased Auction Rate Securities from TD Ameritrade Holding Corporation (Nasdaq: [AMTD - News](#)) and TD Ameritrade, Inc., formerly known as TD Waterhouse Investor Services, Inc. between March 19, 2003 and February 13, 2008, inclusive (the "Class Period"), and who continued to hold such securities as of February 13, 2008.

The class action, captioned *Humphrys v. TD Ameritrade Holding Corporation, et al.*, 08-cv-2912 (PAC), is pending in the United States District Court for the Southern District of New York. The class action is brought against TD Ameritrade Holding Corporation and its wholly-owned broker-dealer subsidiary, TD Ameritrade, Inc., formerly known as TD Waterhouse Investor Services, Inc.

The Complaint alleges that TD Ameritrade violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 by deceiving investors about the investment characteristics of auction rate securities and the auction market in which these securities traded. Auction rate securities are either municipal or corporate debt securities or preferred stocks which pay interest at rates set at periodic "auctions." Auction rate securities generally have long-term maturities or no maturity dates.

The Complaint alleges that, pursuant to uniform sales materials and top-down management directives, TD Ameritrade offered and sold auction rate securities to the public as highly liquid cash-management vehicles and as suitable alternatives to money market mutual funds. According to the Complaint, holders of auction rate securities sold by TD Ameritrade and other broker-dealers have been unable to liquidate their positions in these securities following the decision on February 13, 2008 of all major broker-dealers including TD Ameritrade to "withdraw their support" for the periodic auctions at which the interest rates paid on auction rate securities are set.

The Complaint alleges that TD Ameritrade failed to disclose the following material facts about the auction rate securities it sold to the class: (1) the auction rate securities were not cash alternatives, like money market funds, but were instead, complex, long-term financial instruments with 30 year maturity dates, or longer; (2) the auction rate securities were only liquid at the time of sale because TD Ameritrade and other broker-dealers were artificially supporting and manipulating the auction rate market to maintain the appearance of liquidity and stability; (3) TD Ameritrade and other broker-dealers routinely intervened in auctions for their own benefit, to set rates and prevent all-hold auctions and failed auctions; and (4) TD Ameritrade continued to market auction rate securities as liquid investments after it had determined that it and other broker dealers were likely to withdraw their support for the periodic auctions and that a "freeze" of the market for auction rate securities would result.

If you purchased or otherwise acquired Auction Rate Securities from TD Ameritrade between March 19, 2003 and February 13, 2008, and continued to hold such securities as of February 13, 2008, you may, no later than May 19, 2008, request that the Court appoint you as lead plaintiff. A lead plaintiff is a representative party acting on behalf of other class members in directing the litigation. To be appointed lead plaintiff, the Court must decide that your claim is typical of the claims of other class members, and that you will adequately represent the class. Your ability to share in any recovery is not affected by the decision whether or not to serve as a lead plaintiff. You may retain Girard Gibbs LLP, or other attorneys, to serve as your counsel in this action.

If you wish to discuss your rights as an investor in auction rate securities through TD Ameritrade or any other brokerage, please contact Girard Gibbs LLP toll-free at (866) 981-4800. A copy of the complaint is available from the Court, or can be viewed on Girard Gibbs LLP's website at: <http://www.girardgibbs.com/auctionrate.html>.

Girard Gibbs LLP is one of the nation's leading firms representing individual and institutional investors in securities fraud class actions and litigation to correct abusive corporate governance practices, breaches of fiduciary duty and proxy violations. For more information, please access the firm's web site, [www.girardgibbs.com/auctionrate.html](http://www.girardgibbs.com/auctionrate.html). To discuss this class action with us, please contact the following attorneys:

Daniel C. Girard ([dcg@girardgibbs.com](mailto:dcg@girardgibbs.com))

Jonathan K. Levine ([jk1@girardgibbs.com](mailto:jk1@girardgibbs.com))

Aaron M. Sheanin ([ams@girardgibbs.com](mailto:ams@girardgibbs.com))

601 California Street, 14<sup>th</sup> Floor

San Francisco, CA 94108

Phone number: (866) 981-4800

Website: <http://www.girardgibbs.com/auctionrate.html>

*Contact:*

Girard Gibbs LLP

Daniel C. Girard, Jonathan K. Levine  
or Aaron M. Sheanin, 415-981-4800

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Source: Girard Gibbs LLP

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# **EXHIBIT B**

**CERTIFICATION OF PROPOSED LEAD PLAINTIFF  
PURSUANT TO THE FEDERAL SECURITIES LAWS**

I, Janet Jones, declare the following as to the claims asserted, or to be asserted, under the federal securities laws:

1. I am the sole trustee of the Jones Living Trust Dated 1/14/2002 ("Jones Living Trust"). I have full authority to act on behalf of the Jones Living Trust including the authority to bring or participate in a lawsuit under the federal securities laws.

2. I have reviewed the complaint against TD Ameritrade Holding Corporation and TD Ameritrade, Inc. (collectively, "TD Ameritrade"), prepared by Girard Gibbs LLP, Stueve Siegel Hanson LLP, and Seeger Weiss LLP, whom I designate as my counsel and counsel for the Jones Living Trust in this action for all purposes.

3. The Jones Living Trust did not acquire any auction rate securities from TD Ameritrade at the direction of counsel or in order to participate in any private action under the federal securities laws.

4. The Jones Living Trust is willing to serve as a lead plaintiff either individually or as part of a group. On behalf of the Jones Living Trust, I understand that a lead plaintiff is a representative party who acts on behalf of other class members in directing the litigation, and whose duties may include testifying at deposition or trial.

5. The Jones Living Trust will not accept any payment for serving as a representative party beyond its pro rata share of any recovery, except reasonable costs and expenses, such as lost wages and travel expenses, directly related to the class representation, as ordered or approved by the Court pursuant to law.

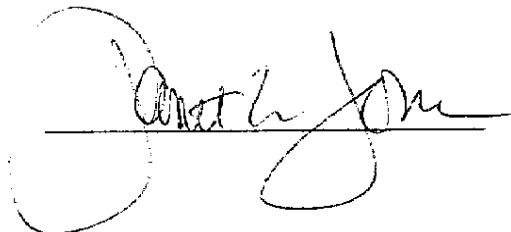
6. The Jones Living Trust has not sought to serve or served as a representative party for a class in an action under the federal securities laws within the past three years.

7. I understand that this is not a claim form, and that my ability to share in any recovery as a class member is not affected by my decision to serve as a representative party.

8. The Jones Living Trust's purchases and sales of auction rate securities sold to it through TD Ameritrade are attached as **Attachment A** to this document.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of May, 2008

A handwritten signature in black ink, appearing to read "Janet L. Jones", is written over a horizontal line. The signature is fluid and cursive, with "Janet" on top and "L. Jones" below it.

**ATTACHMENT A**

**TRANSACTIONS OF THE JONES LIVING TRUST DATED 1/14/2002 IN  
AUCTION RATE SECURITIES SOLD BY TD AMERITRADE BETWEEN  
MARCH 19, 2003 AND FEBRUARY 13, 2008,  
AND HELD AS OF FEBRUARY 13, 2008**

Trade Date	Auction Rate Security	Number of Shares	Price Per Share/Unit	Buy or Sell
September 28, 2007	Nuveen Multi-Strategy Income & Growth Fund 2	34	\$25,000	Bought
November 16, 2007	Nuveen Multi-Strategy Income & Growth Fund 2	37	\$25,000	Bought
November 29, 2007	Nuveen Quality Preferred Income Fund	7	\$25,000	Bought
May 12, 2008	Nuveen Multi-Strategy Income & Growth Fund 2	15	\$25,000	Redeemed
May 12, 2008	Nuveen Multi-Strategy Income & Growth Fund 2	14	\$25,000	Redeemed

# **EXHIBIT C**

**CERTIFICATION OF PROPOSED LEAD PLAINTIFF  
PURSUANT TO THE FEDERAL SECURITIES LAWS**

I, Michael Jones, declare the following as to the claims asserted, or to be asserted, under the federal securities laws:

1. I have reviewed the complaint against TD Ameritrade Holding Corporation and TD Ameritrade, Inc. (collectively, "TD Ameritrade"), prepared by Girard Gibbs LLP, Stueve Siegel Hanson LLP, and Seeger Weiss LLP, whom I designate as my counsel in this action for all purposes.

2. I did not acquire any auction rate securities from TD Ameritrade at the direction of counsel or in order to participate in any private action under the federal securities laws.

3. I am willing to serve as a lead plaintiff either individually or as part of a group. I understand that a lead plaintiff is a representative party who acts on behalf of other class members in directing the litigation, and whose duties may include testifying at deposition or trial.

4. I will not accept any payment for serving as a representative party beyond my pro rata share of any recovery, except reasonable costs and expenses, such as lost wages and travel expenses, directly related to the class representation, as ordered or approved by the Court pursuant to law.

5. I have not sought to serve or served as a representative party for a class in an action under the federal securities laws within the past three years.

6. I understand that this is not a claim form, and that my ability to share in any recovery as a class member is not affected by my decision to serve as a representative party.

7. My purchases and sales of auction rate securities sold to me through TD Ameritrade are attached as **Attachment A** to this document:

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18 th day of May, 2008

  
\_\_\_\_\_  
Michael Jones

**ATTACHMENT A**

**MICHAEL JONES' TRANSACTIONS IN AUCTION RATE  
SECURITIES SOLD BY TD AMERITRADE BETWEEN  
MARCH 19, 2003 AND FEBRUARY 13, 2008,  
AND HELD AS OF FEBRUARY 13, 2008**

Trade Date	Auction Rate Security	Number of Shares	Price Per Share/Unit	Buy or Sell
November 5, 2007	Nuveen Multi-Strategy Income & Growth Fund 2	16	\$25,000	Bought
November 15, 2007	Nuveen Multi-Strategy Income & Growth Fund 2	2	\$25,000	Bought
May 6, 2008	Nuveen Multi-Strategy Income & Growth Fund 2	4	\$25,000	Redeemed
May 9, 2008	Nuveen Multi-Strategy Income & Growth Fund 2	1	\$25,000	Redeemed

# **EXHIBIT D**

**CERTIFICATION OF PROPOSED LEAD PLAINTIFF  
PURSUANT TO THE FEDERAL SECURITIES LAWS**

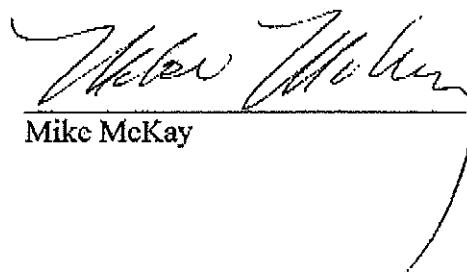
I, Mike McKay, declare the following as to the claims asserted, or to be asserted, under the federal securities laws:

1. I have reviewed the complaint against TD Ameritrade, prepared by Girard Gibbs LLP and Stueve Siegel Hanson LLP ("Counsel"), whom I designate as my counsel in this action for all purposes.
2. I did not acquire any auction rate securities from TD Ameritrade at the direction of Counsel or in order to participate in any private action under the federal securities laws.
3. I am willing to serve as a lead plaintiff either individually or as part of a group. I understand that a lead plaintiff is a representative party who acts on behalf of other class members in directing the litigation, and whose duties may include testifying at deposition or trial.
4. I will not accept any payment for serving as a representative party beyond my pro rata share of any recovery, except reasonable costs and expenses, such as lost wages and travel expenses, directly related to the class representation, as ordered or approved by the Court pursuant to law.
5. I have not sought to serve or served as a representative party for a class in an action under the federal securities laws within the past three years.
6. I understand that this is not a claim form, and that my ability to share in any recovery as a class member is not affected by my decision to serve as a representative party.

7. My purchases and sales of auction rate securities sold to me through TD Ameritrade are attached as **Attachment A** to this document:

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14 day of May, 2008

  
\_\_\_\_\_  
Mike McKay

**ATTACHMENT A**

**MICHAEL McKAY'S TRANSACTIONS IN AUCTION RATE  
SECURITIES SOLD BY TD AMERITRADE BETWEEN  
MARCH 19, 2003 AND FEBRUARY 13, 2008,  
AND HELD AS OF FEBRUARY 13, 2008**

<b>Trade Date</b>	<b>Auction Rate Security</b>	<b>Number of Shares</b>	<b>Price Per Share/Unit</b>	<b>Buy or Sell</b>
August 16, 2007	Nuveen Premier Municipal Income Fund Preferred Series TH	18	\$25,000	Bought
August 17, 2007	Nuveen Investment Quality Municipal Fund Inc. Preferred Series F	24	\$25,000	Bought
January 15, 2008	Nuveen Select Quality Municipal Fund Preferred Series T	4	\$25,000	Bought
January 15, 2008	Nuveen Quality Income Municipal Fund Preferred Series T	4	\$25,000	Bought
February 1, 2008	Nuveen Select Quality Municipal Fund Preferred Series F	10	\$25,000	Bought
February 1, 2008	Nuveen Investment Quality Municipal Fund Inc. Preferred Series F	10	\$25,000	Bought

# EXHIBIT E

# GIRARD GIBBS LLP

Attorneys at Law

601 California Street, 14th Floor | San Francisco, CA 94108-2819  
Tel: 415.981.4800 | Fax: 415.981.4846 | [www.girardgibbs.com](http://www.girardgibbs.com)

## FIRM RESUME

Girard Gibbs LLP specializes in class action and complex business litigation. Founded in 1995, the firm represents clients throughout the United States in securities, antitrust, product liability, and consumer protection actions. The firm specializes in representing and counseling institutional investors in securities and derivative litigation and has advised some of the largest institutional investors in the United States. Girard Gibbs is currently prosecuting securities actions on behalf of Allianz of America, Inc., Fireman's Fund Insurance Company, Jefferson Life Insurance Company, Preferred Life Insurance Company, AGF Asset Management, Cornhill Life Insurance Company and Merchant Investors Insurance Company Ltd. The firm has represented the Kansas Public Employees Retirement System (KPERS) in several securities actions and currently serves as outside counsel to KPERS with respect to all securities litigation. Girard Gibbs has also served as outside counsel to the California Public Employees Retirement System (CalPERS), the California State Teachers' Retirement System (CalSTRS), the State of Wisconsin Investment Board, the Louisiana Teachers' Retirement System, the Louisiana State Employees Retirement System, and the Los Angeles County Employees Retirement Association.

The firm's partners are experienced in all aspects of class action practice and complex securities and business litigation. Girard Gibbs seeks to apply its experience as plaintiffs' attorneys to manage and resolve civil litigation effectively and efficiently on behalf of all the firm's clients. The firm also provides consulting and preventive counseling services to corporate clients and professionals on a variety of legal issues.

## PARTNERS

**Daniel C. Girard** serves as the firm's managing partner and coordinates the prosecution of various securities, antitrust and consumer legal matters handled by the firm.

He has successfully prosecuted over 75 class action matters and served in leadership positions in a number of high-profile cases. Some of the cases in which Mr. Girard served as lead counsel include In re American Express Financial Advisors Securities Litigation, (\$100 million settlement), In re Prison Realty Securities Litigation, (\$104 million settlement), In re i2 Technologies Securities Litigation, (\$88 million settlement), and In re MCI Non-Subscriber Rates Litigation, (\$90 million). Mr. Girard represented the California State Teachers Retirement System in litigation in a non-class securities action against Qwest Communications, Inc. and outside auditor Arthur Andersen, resulting in a recovery of \$45 million for CalSTRS. He also served as a member of the Executive Committee in the Natural Gas Antitrust Cases I, II, III and IV, antitrust litigation against numerous natural gas companies for manipulating the market for natural gas in California. The Natural Gas litigation resulted in total settlements of nearly \$160 million to date.

Mr. Girard currently represents Nashville country music publisher Cal IV Entertainment LLC in copyright litigation against YouTube and Google, Inc. He also represents Allianz of America, Inc., Fireman's Fund and other large private institutional investors in litigation arising out of their investments in Winstar Communications, Inc., and serves as lead counsel in the H&R Block Express IRA Litigation.

Mr. Girard is a member of United States Judicial Conference Advisory Committee on Civil Rules, and participated in the development of the electronic discovery amendments to the Federal Rules of Civil Procedure. He is a member of the American Law Institute. He is past Chair of the American Bar Association Business Law Section Subcommittee on Class Actions, Co-Chair of the Business and Corporate Litigation Committee's Task Force on Litigation Reform and Rule Revision, and Vice-Chair of the Business and Corporate Litigation Committee. He has served as a guest lecturer on class actions and complex litigation at the major Bay Area law schools.

In 2007, Mr. Girard was honored as a *Northern California Super Lawyer* by Law & Politics Magazine, where he was recognized in the top 5-percent of attorneys practicing in Northern California. He serves as Chair of the Board of Trustees of the St. Matthew's Episcopal Day School in San Mateo, California. He has been a volunteer conservation easement monitor for the Peninsula Open Space Trust since 1991.

He is a 1984 graduate of the School of Law, University of California at Davis, where he served as an editor of the Law Review. He received his undergraduate degree from Cornell University in 1979. Mr. Girard is a member of the California Bar.

**Eric H. Gibbs** has served as court-appointed lead counsel, class counsel and liaison counsel in numerous consumer class actions throughout the United States. He has successfully prosecuted over 40 consumer class action matters, including cases involving defective products, telecommunications, credit cards, unfair competition, false advertising, truth-in-lending, product liability and credit repair under both state and federal consumer protection statutes.

Some of the consumer class actions in which Mr. Gibbs acted in a leadership role that resulted in favorable settlements for class members include Mitchell v. American Fair Credit Association and Mitchell v. Bankfirst, N.A., which generated one of the largest settlements in the United States under the credit services laws (over \$40 million), Providian Credit Card Cases, which resulted in one of the largest class action recoveries in the United States arising out of consumer credit card litigation (\$105 million), In re LookSmart Litigation, a nationwide class action settlement providing cash and benefits valued at approximately \$20 million, and In Re General Motors Dex-Cool Cases, one of the largest motor vehicle settlements of all time with General Motors agreeing to pay cash reimbursements to class members ranging from \$50 to \$800 and up to 20 million vehicle owners and lessees affected. Mr. Gibbs also served in a leadership role in litigation over the Apple Ipod's early battery failures, resulting in a widely publicized settlement.

Mr. Gibbs is a 1995 graduate of the Seattle University School of Law. He received his undergraduate degree from San Francisco State University in 1991. Before joining Girard Gibbs, he worked for two years as a law clerk for the Consumer Protection Division of the Washington Attorney General's Office. Mr. Gibbs has lectured on consumer class actions, including most recently as a featured speaker for the Litigation Section of the Barristers Club of the San Francisco Bar Association concerning, "Class Certification In Consumer Cases" (2006) and for the Consumer Rights Section of the Barristers Club of the San Francisco Bar Association concerning, "Successfully Obtaining Attorneys' Fees Under Fee-Shifting Statutes" (2004).

Mr. Gibbs is admitted to the California Bar. He also is admitted to practice before the United States Court of Appeals for the Ninth Circuit, as well as the United States District Courts for the District of Colorado and the Northern, Eastern, Central and Southern Districts of California. Mr. Gibbs is a member of the American Bar Association, the Association of Trial Lawyers of America, the National Association of Consumer Advocates, the Consumer Attorneys of California, the Association of Business Trial Lawyers, the Alameda County Bar Association, and the San Francisco Trial Lawyers Association.

**A. J. De Bartolomeo** has fifteen years experience in complex litigation, including the prosecution and defense of class actions arising under the securities, communications, consumer protection and copyright laws.

Ms. De Bartolomeo participated in the firm's representation of the California State Teachers Retirement System in CalSTRS v. Qwest Communications, et al., opt-out securities litigation against Qwest Communications, Inc. Ms. De Bartolomeo served as lead counsel in Lehman v. Blue Shield in California Superior Court for the County of San Francisco, where plaintiffs alleged that premium increase practices were unfair and deceptive, and resulted in thousands of people paying additional premiums. The parties negotiated a class-wide settlement, which was approved by the Court. She also assisted in the prosecution and settlement of the American Express Financial Advisors Litigation.

She is a member of the American Bar Association Sections on Litigation, Business Law and Communications and the American Association for Justice. She also is a member of the National Association of Public Pension Attorneys, where she is an active participant in the Task Force on Securities Litigation and Damage Calculation, as well as a member of the Council of Institutional Investors.

Ms. De Bartolomeo is a 1988 graduate of the University of California, Hastings College of the Law. She received her undergraduate degree from Fairfield University in 1982, and a General Course degree in Economics from the University of London, London School of Economics and Political Science (1981). Ms. De Bartolomeo has been invited to speak on consumer and securities class actions, as well as the settlement approval process before defense law firms, institutional investors and government committees; most recently, for the Fact-finding Mission to Class Actions in the United States, sponsored by the Japan Federation of Bar Associations and Kyoto Bar Association. Before joining Girard Gibbs, Ms. De Bartolomeo was an associate with Robins Kaplan Miller & Ciresi and a Staff Attorney with the Securities and Exchange Commission (Enforcement Division). She is admitted to the California Bar. She also is admitted to practice before the United States Supreme Court, the United States Courts of Appeals for the First and Ninth Circuits, and the United States District Courts for the District of

Michigan, the Southern District of Texas, and the Northern, Eastern, Central and Southern Districts of California.

**Jonathan K. Levine** has nearly 20 years of experience prosecuting complex securities fraud, accounting fraud and class action litigation. He has served and is serving as court-appointed class counsel, lead counsel and liaison counsel in numerous complex class actions in federal courts throughout the United States and in state courts in California. Mr. Levine has prosecuted over 20 securities fraud actions successfully, including cases of complex accounting fraud involving Arthur Andersen, Ernst & Young, KPMG Peat Marwick, Deloitte & Touche, Price Waterhouse and Grant Thornton. Some of the cases in which Mr. Levine served in a leadership role include Rosen v. Macromedia, Inc., where as co-lead counsel he obtained a \$48 million securities class action settlement in California state court, In re Gupta Corporation Securities Litigation, where as co-lead counsel he obtained a \$15 million settlement, Provenz v. Miller, where as co-lead counsel he obtained a \$15 million securities class action settlement, and Providian Credit Card Cases, where as co-lead counsel he obtained a class action settlement of \$105 million, one of the largest class action recoveries in the United States arising out of consumer credit card litigation. Mr. Levine leads the firm's pretrial preparation in securities litigation on behalf of Allianz of America, Inc., Fireman's Fund and other large private institutional investors against Grant Thornton and other defendants arising out of their investments in Winstar Communications, Inc.

Mr. Levine is the author of "E-Mail and Voice Mail Discovery Issues," Glasser LegalWorks (1998), "Discovery Techniques in Commercial Litigation and Recent Developments In the Rules of Discovery," American Trial Lawyers Association (1991), and the co-author of "The Business Judgment Rule and Derivative Actions," Practicing Law Institute (1989). He has lectured on securities litigation under the Private Securities Litigation Reform Act of 1995, consumer fraud and predatory lending litigation, and computer discovery and electronic data retention risk control. Mr. Levine was recently appointed as a member of the Committee on Federal Courts of the State Bar of California. He is the past chair of the American Bar Association Litigation Section Subcommittee on Officers and Directors Liability. He also currently serves as Chairman of the Piedmont Planning Commission.

For nine years prior to joining Girard Gibbs, Mr. Levine was a partner at the New York law firm of Kaplan Fox & Kilsheimer LLP, where he specialized in securities fraud, accounting fraud and consumer class action litigation. Mr. Levine is a 1988 graduate of Fordham University School of Law. He received his undergraduate degree from Columbia University in 1985. Mr. Levine is a member of the California State Bar Association, New York State Bar Association, Connecticut Bar Association, American Bar Association, the Association of Business Trial Lawyers – Northern California, and the Association of Trial Lawyers of America. He is admitted to the New York, Connecticut and California Bars.

**Elizabeth C. Pritzker** is a seasoned litigation and trial attorney with broad experience in complex litigation matters, including the prosecution of consumer, product liability, and securities class actions.

Ms. Pritzker's consumer and product liability experience extends to new and emerging technologies. She served as co-lead counsel in a multi-district class action alleging that SONY BMG Music Entertainment had violated the Computer Fraud and Abuse Act by placing digital

rights management software on music CDs distributed to the public (In re SONY BMG Technologies Litigation, S.D.N.Y. Case No. 1:05-cv-09575 (NRB)), and as co-lead counsel in a California state-court class action against Apple, Inc., alleging that Apple had made material misrepresentations and omissions with respect to the battery life of its early-generation iPod music players (In Re iPod Cases, J.C.C.P. No. 4335).

Ms. Pritzker currently serves as lead counsel in In Re General Motors Cases, JCCP No. 4396, a certified state court class action against General Motors alleging violations of California's "Secret Warranty" law, California Civil Code § 1794.90 et seq. She serves as Liaison Counsel for the Direct Purchaser Plaintiffs in In Re TFT-LCD (Flat Panel) Antitrust Litigation, MDL No. 1897, N.D.Cal. Master File No. C-07-1827-SI (multi-district class action alleging price-fixing by foreign and domestic manufacturers of Thin Film Transistor Liquid Crystal Display (TFT-LCD) products). She also an ongoing and active role in several complex litigation matters, including: In Re Natural Gas Antitrust Cases I, II, III and IV, J.C.C.P. No. 4221 (coordinated antitrust class action litigation against numerous natural gas companies for manipulating the market for natural gas in California which has achieved settlements to date of \$153 million); and Nordberg v. Trilegiant Corporation et al., N.D. Cal. Case No. C-05-3246 (MHP) (federal class action alleging that Trilegiant's practice of placing consumers into the company's membership service programs, and billing them for "membership fees," without consumers' valid authorization violates federal and state consumer laws).

Prior to joining the firm, she served as counsel for the San Francisco Unified School District in a False Claim Act suit against Progress Energy Corp., and its subsidiary Progress Energy Solutions, Inc., that resulted in a \$43 million settlement for the District.

Ms. Pritzker is a 1989 graduate of the University of San Francisco School of Law. She received her undergraduate degree in Economics from McGill University in 1983. Ms. Pritzker is a member of the Association of Trial Lawyers of America, National Association of Consumer Advocates, Trial Lawyers for Public Justice, California Women Lawyers, Consumer Attorneys of California, the Bar Association of San Francisco, the San Mateo Bar Association, and the Alameda County Bar Association. Ms. Pritzker is admitted to the California Bar.

**Aaron M. Sheanin** has extensive experience in complex litigation matters, including the prosecution of securities fraud and corporate governance cases on behalf of individual and institutional investors, as well as antitrust and complex consumer actions. He also advises several state pension funds and private institutional investors with respect to securities matters. Mr. Sheanin currently serves as lead counsel in Brennan v. AT&T Corp., a nationwide class action challenging MCI's practice of assessing long distance telephone service charges to non-customers, pending in the United States District Court for the District of Arizona. He serves as co-chair of the Discovery Committee in Natural Gas Antitrust Cases I, II, III and IV, antitrust litigation against numerous natural gas companies for manipulating the California natural gas market, which has achieved settlements of \$153 million to date.

Mr. Sheanin is a 1999 graduate of Columbia University School of Law, where he was a James Kent Scholar and a Harlan Fiske Stone Scholar. He received his undergraduate degree from the University of California at Berkeley in 1993, where he was elected to Phi

Beta Kappa. Mr. Sheanin is a member of the American Bar Association and the San Francisco Bar Association. He has presented before the American Bar Association's Task Force on Contingent Fees (Tort Trial and Insurance Practice Section), and is a contributing author to "California Class Actions Practice and Procedure" (Matthew Bender, 1<sup>st</sup> Ed. 2003). From 1999 to 2001, Mr. Sheanin was a Pro Se law clerk for the United States Court of Appeals for the Second Circuit. Prior to joining Girard Gibbs, Mr. Sheanin was an associate with Lieff, Cabraser, Heimann & Bernstein LLP, where he had extensive experience prosecuting class action cases involving consumer protection, product defect and employment discrimination. In the summer of 1997, he was a judicial extern to the Honorable Barrington D. Parker, Jr. of the United States District Court, Southern District of New York. He is admitted to the New York, New Jersey and California Bars.

**Amanda M. Steiner** is a 1997 graduate of the University of California at Berkeley, Boalt Hall School of Law, where she served as an Associate Editor for the *Berkeley Journal of Employment and Labor Law* (1995-96) and Articles Editor for the *Berkeley Women's Law Journal* (1994-97). She received her undergraduate degree, *cum laude*, from Carleton College in 1991. Prior to joining Girard Gibbs, Ms. Steiner practiced at Wendel, Rosen, Black & Dean, LLP in Oakland, CA, where she handled a variety of complex litigation matters, including real estate development, construction issues, commercial and real estate contracts, mortgages and trust deeds, and lender-related disputes.

Prior to joining Wendel Rosen, Ms. Steiner was associated with law firms in San Francisco and Seattle, where she represented plaintiffs in all phases of class action litigation, with a particular focus on consumer protection, defective product and employment matters. Prior to obtaining her law degree, Ms. Steiner served as an extern for U.S. District Court Judge Marilyn Hall Patel, and also worked as a law clerk for the Criminal Division of the U.S. Attorney's Office, the Alameda County District Attorney, and the Hopi Appellate Court Clinic and Tribal Law Project. She is admitted to the California and Washington Bars. She is also admitted to practice before the United States Court of Appeals for the Ninth Circuit as well as the United States District Court for the Northern District of California and the Western and Eastern District of Washington.

**Steven G. Tidrick** practices in the areas of antitrust, securities, consumer class actions, intellectual property, insurance laws, and complex commercial litigation.

Mr. Tidrick is a member of the American Bar Association Section on Antitrust. He is also a member of the State Bar of California Section on Antitrust and Unfair Competition, Consumer Attorneys of California, San Francisco Trial Lawyers Association and the Alameda County Bar Association.

Mr. Tidrick is a 1999 graduate of Harvard Law School, where he served as Articles & Commentaries Editor for the Harvard Law Review. He also served as editor for the Harvard Civil Rights-Civil Liberties Law Review and the Harvard Environmental Law Review. He received his undergraduate degree, *magna cum laude*, from Harvard College in 1994, where he was elected to Phi Beta Kappa. Mr. Tidrick is Vice President of the Foundation of the State Bar of California, a nonprofit entity dedicated to providing opportunities for lawyers to support community projects and education to improve access to justice. Mr. Tidrick is a frequent speaker on governmental and political issues, most recently moderating the Attorney General

Democratic Candidates' Forum and Oakland Mayoral Candidates' Debate. His writings have been published in such journals as the National Law Journal and The New Republic. From 1999 to 2000, Mr. Tidrick served as law clerk to the Honorable M. Margaret KcKeown, United States Court of Appeals for the Ninth Circuit. In 1998, he was a Teaching Fellow for the Harvard University Department of Government. Prior to joining Girard Gibbs, Mr. Tidrick was a senior associate with Boies, Schiller & Flexner LLP, where he successfully litigated complex matters involving antitrust, securities, commercial litigation and white-collar defense. He formerly was an associate with Foley Hoag LLP, where he litigated matters involving intellectual property, complex commercial litigation and insurance.

He is admitted to the Massachusetts and California Bars. He also is admitted to practice before the United States Court of Appeals for the First and Ninth Circuits, as well as the as well as the United States District Courts for the Northern, Central and Eastern Districts of California and the District of Massachusetts.

## ASSOCIATES

**Christina H. Connolly** is a 2006 graduate, *cum laude*, of the University of California, Hastings College of Law, where she was a member of the Thurston Society and was the recipient of the Best Oral Advocate Award. She was also the recipient of the Witkin award in her Legal Writing and Criminal Law courses. She received her undergraduate degree in history, magna cum laude, from Brown University in 1997. Ms. Connolly was a summer 2005 extern for the Honorable Phyllis J. Hamilton of the United States District Court, Northern District of California. Ms. Connolly also served as a spring 2005 extern for the Honorable John E. Munter, San Francisco Superior Court. She is a member of the American Bar Association, the Bar Association of the San Francisco and the San Francisco Trial Lawyers Association. Ms. Connolly is admitted to the California Bar. She is also admitted to practice before the United States District Courts for the Northern, Central, Eastern and Southern Districts of California.

**Todd Espinosa** is a 2000 graduate of Harvard Law School, where he participated in the Harvard Legal Aid Bureau and Tenant Advocacy Project. He received his undergraduate degree from Harvard College in 1997 and a Master of City Planning degree from University of California at Berkeley in 2006. Before joining Girard Gibbs, Mr. Espinosa was a law clerk for the Honorable Claudia Wilken, United States District Court for the Northern District of California. He also worked as a legal research attorney for the Superior Court of California, County of Santa Clara. Mr. Espinosa is admitted to the California Bar. He is also admitted to practice before the U.S. District Court for the Central District of California.

**Dylan Hughes** is a 2000 graduate of the University of California, Hastings College of Law. He received his undergraduate degree from the University of California at Berkeley in 1995. Mr. Hughes was a spring 2000 extern for the Honorable Charles A. Legge of the United States District Court, Northern District of California. Before joining Girard Gibbs, he was a law clerk for the Honorable Paul A. Mapes, Administrative Law Judge of the Office of Administrative Law Judges, United States Department of Labor. Mr. Hughes is a member of the American Bar Association and the Consumer Rights Section of the Barristers Club. He is admitted to the California Bar. He also is admitted to practice before the United States Court of Appeals for the Ninth Circuit, as well as the United States District Courts for the Northern, Central, Eastern and Southern Districts of California.

**Daniel T. LeBel** is a 2006 graduate of the University of California, Hastings College of Law, where he completed a civil litigation concentration. He received his undergraduate degree, *with distinction in general scholarship*, from the University of California at Berkeley in 1999. Mr. LeBel was a fall 2005 extern for the Honorable Paul Alvarado, San Francisco Superior Court. He is a member of the San Francisco Bar Association, the American Trial Lawyers Association and Trial Lawyers for Public Justice. Mr. LeBel is admitted to the California Bar.

**Geoffrey A. Munroe** is a 2003 graduate of the University of California at Berkeley, Boalt Hall School of Law, where he was the recipient of the American Jurisprudence Award in Torts, Business Law & Policy and Computer Law. In addition, he served as a member of the submissions team for the *Berkeley Technology Law Journal* (2000-01) and was involved in Moot Court and Appellate Advocacy. He received his undergraduate degree in chemistry from the University of California at Berkeley in 2000. Before joining Girard Gibbs, Mr. Munroe was an associate with Samuel E. Goldstein & Associates from 2003 to 2007, where he handled a variety of appellate and complex litigation matters, including commercial law, real property and lender-related disputes. He is admitted to the California Bar. He is also admitted to practice before the United States Court of Appeals for the Ninth Circuit, as well as the United States District Courts for the Northern, Central and Southern Districts of California.

## SIGNIFICANT RECOVERIES

Some of the cases in which the firm has had a leadership role are described below:

***In re American Express Financial Advisors Securities Litigation***, Case No. 04-cv-01773-DAB (S.D.N.Y.). Girard Gibbs served as co-lead counsel in this class action, brought on behalf of individuals who bought financial plans and invested in mutual funds from American Express Financial Advisors. The case alleged that American Express steered its clients into underperforming “shelf space funds” to reap kickbacks and other financial benefits. On July 13, 2007, the Court granted final approval to a cash settlement of \$100 million in addition to other relief.

***Scheiner v. i2 Technologies, Inc., et al.***, Case No. 3:01-CV-418-H (N.D. Tex.).

Girard Gibbs represented lead plaintiff, the Kansas Public Employees Retirement System, and served as co-lead counsel in this securities fraud class action on behalf of investors in i2 Technologies. The Hon. Barefoot Sanders approved cash settlements for \$88 million from the company, its officers and its former auditor, Arthur Andersen LLP. As part of the settlement, i2 agreed to institute significant corporate governance reforms.

***CalSTRS v. Qwest Communications, et al.***, Case No. 415546 (Cal. Super. Ct. San Francisco County). Girard Gibbs represented the California State Teachers Retirement System in this opt-out securities fraud case against Qwest Communications, Inc. and certain of its officers and directors, as well as its outside auditor Arthur Andersen. The case resulted in a precedent-setting \$45 million settlement for California school teachers.

***In re Winstar Communications Securities Litigation***, Case No. 01 Civ. 11522 (S.D.N.Y) Girard Gibbs represents Allianz of America, Inc., Fireman's Fund and other large private institutional investors in federal securities litigation against Grant Thornton and other defendants arising out of their investments in Winstar Communications, Inc. The firm has obtained settlements to date from Lucent Technologies and the individual officers and directors of Winstar, and is continuing to prosecute the case against Grant Thornton, outside auditor to Winstar.

***In re Prison Realty Securities Litigation***, Case No. 3:99-0452 (M.D. Tenn.). Girard Gibbs served as co-lead counsel in this securities class action brought on behalf of investors against a real estate investment trust and its officers and directors, following defendants' alleged false statements made in the context of a merger between Corrections Corporation of America and CCA Prison Realty Trust and subsequent operation of the merged entity. On February 13, 2001, the Court granted final approval to a settlement for over \$104 million in cash and stock.

***In re Digex, Inc. Shareholder Litigation***, Consol. Case No. 18336 (Del. Ch. Ct. 2000). Girard Gibbs represented the Kansas Public Employees Retirement System, one of two institutional lead plaintiffs in this lawsuit whereby minority shareholders of Digex, Inc. sued to enjoin MCI WorldCom's planned acquisition of a controlling interest in Digex through a merger with Intermedia Communications, Inc., the majority shareholder. In a settlement approved by Delaware Chancery Court on April 6, 2000, a fund consisting of \$165 million in MCI WorldCom stock and \$15 million in cash was secured for Digex shareholders, as well as non-cash benefits valued at \$450 million.

***In re Oxford Tax Exempt Fund Securities Litigation***, Case No. WMN-95-3643 (D. Md.). Girard Gibbs served as co-lead counsel in this class and derivative litigation brought on behalf of a real estate limited partnership with assets of over \$200 million. Settlement providing for exempt issuance of securities under section 3(a)(10) of Securities Act of 1933, public listing of units, and additional settlement benefits valued at over \$10 million approved January 31, 1997.

***Calliott v. HFS, Inc.***, Case No. 3:97-CV-0924-L (N.D. Tex.). Girard Gibbs intervened on behalf of an institutional client in this securities class action arising out of bankruptcy of Amre, Inc., a seller of home remodeling and repair services. Girard Gibbs was

designated lead plaintiff's counsel under Private Securities Litigation Reform Act. Settlements for \$7.3 million were approved August 1999 and December 2000.

***In re Total Renal Care Securities Litigation***, Case No. 99-01750 (C.D. Cal.). This securities fraud action arose out of restatement of earnings by healthcare provider, brought under the PSLRA by the Louisiana Teachers' Retirement System and the Louisiana School Employees Retirement System. Settled for \$25 million and issuer's commitment to adopt comprehensive corporate governance reforms. Girard Gibbs served as liaison counsel.

***In re Towers Financial Corporation Noteholders Litigation***, MDL No. 994 (S.D.N.Y.). This securities and RICO class action was brought against promoters and professionals associated with failed investment scheme described by United States Securities and Exchange Commission as "largest Ponzi scheme in U.S. history." \$6 million in partial settlements. \$250 million judgment entered against four senior Towers executives. Girard Gibbs served as liaison counsel and as a plaintiffs' executive committee member. See Dinsmore v. Squadron, Ellenoff, Plesent, Sheinfeld & Sorkin, 945 F. Supp. 84 (S.D.N.Y. 1996), rev'd, No. 97-7011, 1998 U.S. App. LEXIS 1448 (2d Cir. Jan. 28, 1998); In re Towers Financial Corporation Noteholders Litigation, 177 F.R.D. 167 (S.D.N.Y. 1997) ("class counsel--particularly Plaintiffs' Liaison counsel, Daniel Girard--has represented the plaintiffs diligently and ably in the several years that this litigation has been before me").

***In re Natural Gas Antitrust Cases I, II, III and IV***, J.C.C.P. No. 4221 (Cal. Super. Ct. San Diego County). Girard Gibbs served in a leadership capacity in this coordinated antitrust litigation against numerous natural gas companies for manipulating the California natural gas market, which has achieved settlements of nearly \$160 million to date.

***In re Providian Credit Card Cases***, J.C.C.P. No. 4085 (Cal. Super. Ct. San Francisco County). Girard Gibbs served as court-appointed co-lead counsel in this nationwide class action suit brought on behalf of Providian credit card holders. The lawsuit alleged that Providian engaged in unlawful, unfair and fraudulent business practices by charging its customers unauthorized fees and charges. The Hon. Stuart Pollack approved a \$105 million settlement, plus injunctive relief, which is one of the largest class action recoveries in the United States arising out of consumer credit card litigation.

***In re iPod Cases***, JCCP No. 4355 (Cal. Super. Ct. San Mateo County). Girard Gibbs, as court appointed co-lead counsel, negotiated a settlement conservatively valued at approximately \$15 million which provided warranty extensions, battery replacements, cash payments, and store credits for those class members who experienced a battery failure. In granting final approval of the settlement, the Hon. Beth L. Freeman said that the class was represented by "extremely well qualified" counsel who negotiated a "significant and substantial benefit" for the class members.

***In re Sony BMG CD Technologies Litigation***, Case No. 1:05-cv-09575-NRB (S.D.N.Y.). Girard Gibbs served as co-lead counsel in this class action for violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* on behalf of millions of consumers who purchased SONY BMG music compact discs encoded with digital rights management ("DRM") software which limited CD functionality and acted as spyware on the users' computers. The Hon. Naomi Reice Buchwald granted approval to a settlement that provided

for a nationwide recall of certain CDs, the dissemination of software utilities to remove the offending DRM, cash and other compensation for consumers, and injunctive relief governing SONY BMG's use of DRM.

***In re PayPal Litigation***, Case No. C-02-1227-JF (PVT) (N.D.Cal., S.J. Div. 2002). Girard Gibbs served as co-lead counsel in this nationwide class action brought against PayPal alleging violations of the Electronic Funds Transfer Act ("EFTA") and California consumer protection statutes. The plaintiffs alleged that PayPal did not comply with the EFTA when restricting access to consumers' PayPal accounts, initiating certain electronic funds transfers or its error resolution processes. On September 24, 2004, Judge Fogel granted final approval to a settlement valued at \$14.35 million in cash and returned funds, plus injunctive relief to ensure compliance with the EFTA.

***In re Literary Works In Electronic Databases Copyright Litigation***, MDL No. 1379 (GBD) (S.D.N.Y. 2000). Girard Gibbs served as co-lead counsel in this class action brought on behalf of freelance authors alleging that after freelance authors' works were published in newspapers, magazines, and other print publications with the authors' permission, those publications then licensed the works without the authors' permission to the commercial databases for electronic publication, in violation of the Federal Copyright Act. Five cases were consolidated for pretrial proceedings before the Honorable George B. Daniels, U.S. District Judge for the Southern District of New York. On September 27, 2005, Judge Daniels granted final approval of an \$18 million cash settlement.

***In re America Online Spin-Off Accounts Litigation***, MDL No. 04-1581-RSWL (C.D. Cal.). Girard Gibbs served as court-appointed co-lead counsel in this nationwide class action suit brought on behalf of America Online subscribers who were billed for a second account without their knowledge, authorization or consent. The litigation settled for \$25 million and certain changes in AOL's billing and account practices.

***Lehman v. Blue Shield of California***, Case No. CGC-03-419349 (Cal. Super. Ct. San Francisco County). In this class action lawsuit alleging that Blue Shield engaged in unlawful, unfair and fraudulent business practices when it modified the risk tier structure of its individual and family health care plans, a \$6.5 million settlement was negotiated on behalf of former and current Blue Shield subscribers residing in California. The Honorable James L. Warren granted final approval of the settlement in March 2006.

***Roy v. Hyundai Motor America***, Case No. SACV 05-483-AHS (C.D. Cal.). Girard Gibbs served as court appointed co-lead counsel in this nationwide class action suit brought on behalf of Hyundai Elantra owners and lessees, based on allegations that the passenger air bag system installed on the Elantras was defective. A settlement was negotiated whereby Hyundai agreed to repair the air bag systems, provide reimbursement for transportation related expenses and an alternative dispute resolution program allowing for trade-ins and buy-backs. In approving the settlement negotiated by Girard Gibbs, the Honorable Alicemarie H. Stotler presiding, described the settlement as "pragmatic" and a "win-win" for all involved.

***Powers Law Offices, P.C. v. Cable & Wireless USA, Inc.***, Case No. 99 CV 12007 (EFH) (D. Mass 1999). Class action brought on behalf of all Cable & Wireless subscribers who were overcharged for recurring and incorrect fees on lines that were not presubscribed to C&W at the

time. Girard Gibbs prosecuted the case from 1999 through 2005, and on October 27, 2005, Judge Harrington granted final approval of the \$8 million settlement and the Bankruptcy Judge approved the 30% distribution from the unsecured creditors' fund of the bankruptcy liquidation proceeds.

***Allen Lund Co., Inc. v. AT&T Corp.***, Case No. C 98-1500-DDP (AJW) (C.D. Cal.). This class action lawsuit was brought on behalf of small businesses whose long-distance service was switched to Business Discount Plan, Inc. Girard Gibbs was appointed class counsel by the Honorable Dean D. Pregerson. The settlement, providing for full cash refunds and free long-distance telephone service, was approved in December 1999.

***In re MCI Non-Subscriber Telephone Rates Litigation***, MDL Docket No. 1275 (S.D. Ill.). This class action lawsuit was brought on behalf of all MCI subscribers who were charged MCI's non-subscriber or "casual caller" rates and surcharges instead of the lower rates which MCI advertises and which subscribers expect to be charged. Ten cases were consolidated for pretrial proceedings before the Honorable David R. Herndon, U.S. District Judge for the Southern District of Illinois. Judge Herndon appointed Girard Gibbs as co-lead counsel for the consolidated actions. On March 29, 2001, Judge Herndon granted final approval of a settlement for over \$90 million in cash.

***Mitchell v. American Fair Credit Association***, Case No. 785811-2 (Cal. Super. Ct. Alameda County); ***Mitchell v. Bankfirst, N.A.***, Case No. C-97-1421-MMC (N.D. Cal.). This class action lawsuit was brought on behalf of California residents who became members of the American Fair Credit Association ("AFCA"). Plaintiffs alleged that AFCA operated an illegal credit repair scheme. The Honorable James Richman certified the class and appointed the firm as class counsel on April 12, 1999. In February 2003, Judge Ronald Sabraw of the Alameda County Superior Court and Judge Maxine Chesney of the U.S. District Court for the Northern District of California granted final approval to settlements valued at over \$40 million. *See Mitchell, et al., v. American Fair Credit Association, Inc., et al.*, 99 Cal. App. 4th 1345 (2002) (first reported decision under the California Credit Services Act of 1984).

***In re LookSmart Litigation***, Case No. 02-407778 (Cal. Super. Ct. San Francisco County). This nationwide class action suit was brought against LookSmart, Ltd. on behalf of LookSmart's customers who paid an advertised "one time payment" to have their web sites listed in LookSmart's directory, only to be later charged additional payments to continue service. The action involved claims for breach of contract and violation of California's consumer protection laws, among other things. On October 31, 2003, the Honorable Ronald M. Quidachay granted final approval of a nationwide class action settlement providing cash and benefits valued at approximately \$20 million.

***Steff v. United Online, Inc.***, Case No. BC265953, (Los Angeles Super. Ct.). This nationwide class action suit was brought against NetZero, Inc. and its parent, United Online, Inc., by former NetZero customers. The Plaintiffs alleged that Defendants falsely advertised their internet service as being unlimited and guaranteed for a specific period of time when it was not, in violation of Consumers Legal Remedies Act, Civil Code §§ 17500 *et seq.* and the Unfair Competition Law, Business And Professions Code §§ 17200 *et seq.* The Honorable Victoria G. Chaney of the Los Angeles Superior Court granted final approval of a settlement

that provides full refunds to customers whose services were cancelled and additional cash compensation. The settlement also places restrictions on Defendants' advertising.

***Mackouse v. The Good Guys - California, Inc.***, Case No. 2002-049656, (Alameda County Super. Ct.). This nationwide class action lawsuit was brought against The Good Guys and its affiliates alleging violations of the Song-Beverley Warranty Act and other California consumer statutes. The Plaintiff alleged that The Good Guys failed to honor its service contracts, which were offered for sale to customers and designed to protect a customer's purchase after the manufacturer's warranty expired. In May 9, 2003, the Honorable Ronald M. Sabraw granted final approval of a settlement that provides cash refunds or services at the customer's election.

***Stoddard v. Advanta Corp.***, Case No. 97C-08-206-VAB (Del. Superior Ct.). This nationwide class action lawsuit was brought on behalf of cardholders who were promised a fixed APR for life in connection with balance transfers, whose APR was then raised pursuant to a notice of change in terms. The Honorable Vincent A. Bifferato approved a \$7.25 million settlement and appointed firm as co-lead counsel for the settlement class.

***In re America Online, Inc. Version 5.0 Software Litigation***, MDL Docket No. 1341 (S.D. Fla.). Girard Gibbs served as co-lead counsel in this MDL proceeding, which centralized 45 class actions. The action involved alleged violations of the Computer Fraud and Abuse Act, 18 U.S.C. §§ 1030 *et seq.*, federal antitrust laws and state consumer protection statutes based on AOL's distribution of its Version 5.0 software upgrade. The Honorable Alan S. Gold granted final approval to a \$15.5 million cash settlement on August 1, 2002.

***Mager v. First Bank of Marin***, CV-S-00-1524-PMP (D. Nev.). This nationwide class action was brought on behalf of people who were enrolled in First Bank of Marin's credit card program. In May 2002, the Judge Pro of the U.S. District Court for the District of Nevada approved a settlement providing for cash and non-cash benefits to class members.

***Ho v. San Francisco Unified School District***, Case No. C-94-2418-WHO (N.D. Cal.). This civil rights action was brought on behalf of a certified class of San Francisco public school students of Chinese descent to terminate racial and ethnic quotas imposed under 1983 desegregation consent decree. See Ho v. San Francisco Unified Sch. Dist., 965 F. Supp. 1316 (N.D. Cal. 1997), aff'd 147 F.3d 854 (9th Cir. 1998); see also 143 Cong. Rec. S6097, 6099 (1997) (statement of United States Senator Hatch referring to testimony of class representative before Senate Judiciary Committee).

***In re World War II Era POW Litigation***, Case No. C-99-5042-VRW (N.D. Cal.). This class action lawsuit was brought on behalf of American veterans who, as prisoners-of-war held by the Japanese during World War II, were forced to perform slave labor for Japanese industry. Commenting on the Ninth Circuit decision affirming dismissal of the claims, Mr. Girard was quoted in the New York Times, "It's not unusual that you see a demand for payment that isn't legally enforceable. But the demand stands. If the position of the Japanese companies involved is that they refuse to consider the demand for compensation and stand on legal defenses, the moral consequences are what they are."

# **EXHIBIT F**

# Stueve • Siegel • Hanson



LLP

Stueve Siegel Hanson LLP was founded in 2001 by lawyers who formerly practiced at large national law firms. The Firm now boasts fourteen lawyers including several former federal and state law clerks. The Firm is rated AV, and its lawyers have accumulated several local, regional, and national awards for their successes and dedication to the practice.

Stueve Siegel Hanson represents plaintiffs and defendants in complex securities, business, class action, wage and hour, environmental, and product liability litigation and trials.

As counsel for both plaintiffs and defendants, Stueve Siegel Hanson LLP has handled a wide variety of class and individual securities fraud cases, including cases involving misrepresentations, suitability, and non-disclosure. Currently, Stueve Siegel Hanson LLP is prosecuting securities claims against H&R Block in Federal Court in Missouri. Lawyers at the firm also have prosecuted minority oppression and shareholder derivative cases and have handled several securities-related regulatory matters before the Securities and Exchange Commission, the Financial Industry Regulatory Authority (previously known as the National Association of Securities Dealers), and state regulatory agencies.

Since opening our doors in 2001, SSH has obtained substantial results in a wide range of class and collective actions while serving as lead or co-lead counsel including:

- Obtaining \$75-125 million in relief for purchasers of Hyundai vehicles for Hyundai's overstatement of horsepower in vehicles; A \$27.5 million settlement in a wage and hour lawsuit brought on behalf of loan originators;
- Obtaining in excess of \$50 million in settlements of wage and hour claims on behalf of employees in the financial services, pharmaceutical, cosmetology and call center industries;
- Settlement of a nationwide class action involving GM automobiles equipped with "Dex-Cool" coolant;
- Obtaining \$33 million in relief for owners of Mitsubishi and Chrysler owners related to defective wheel rims;
- Obtaining \$7.2 million in relief for Sprint customers effected by Sprint's practice of improperly charging "casual caller" rates;
- Obtaining \$35-50 million in relief for Volkswagen owners effected by VW's use of a faulty plastic part in the window mechanism of certain vehicles;
- Obtaining a \$7.7 million nationwide settlement after the Court certified a nationwide class of Cable & Wireless customers who had been overcharged PICC fees.

In addition to these cases, SSH currently acts as lead or co-lead counsel and represents plaintiffs in class and collective actions pending against The Dow Chemical Company, Premcor

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Refining Company, Wells Fargo Bank, Dell, Inc, RJ Reynolds, Sprint/Nextel, Cable & Wireless, Tyson Foods, Merck, Monsanto, AT&T Wireless, Volkswagen, General Motors, DaimlerChrysler and TeleTech Holdings, Inc. Our firm has defended class actions as well, including defending the Allstate Insurance Company in a class action brought by policyholders claiming Allstate improperly discounted medical reimbursements.

SSH has also obtained substantial results in non-class cases, including numerous successes at trial. Some of our recent courtroom victories include:

- A \$20 million jury verdict on behalf of independent contractor agents against State Farm in a breach of contract and tortious interference case;
- A \$4.2 million jury verdict against one of the country's largest securities brokers, A.G. Edwards & Sons, in a breach of contract and fraud case;
- A \$3.5 million jury verdict and attorneys' fee award against the world's largest manufacturer of recreational boats in a fraud and breach of contract case;
- A \$1.6 million jury verdict against a major paint and coating supplier in a negligent misrepresentation case;
- A defense verdict for a client defending a multi-million dollar tort claim;
- A defense verdict in a high-profile white collar criminal price fixing case following an eight week trial.

We are proud of our successes and our focus on results. Our mission is the same whether our clients are a class of employees and consumers or Fortune 100 companies.

### *Our Partners*

Our lawyers have a breadth of experience that is national in scope. We have appeared before state and federal courts nationwide, and have successfully litigated cases across the country. Here are our partners:

**Patrick J. Stueve** started his career clerking for the late United States District Court Judge John W. Oliver in the Western District of Missouri, Kansas City. He then joined the trial department of Stinson, Mag & Fizzell where he became partner in 1994. He was the youngest of six partners to leave Stinson, Mag in 1996 to found Berkowitz, Feldmiller, Stanton, Brandt, Williams & Stueve. Patrick had various management responsibilities at Stinson and then Berkowitz before leaving to found SSH. Pat received his B.A. in Economics, with distinction, from Benedictine College in 1984, and his J.D. from the University of Kansas (Order of the Coif) in 1987 where he served as an Editor of both the Kansas Law Review and the Criminal Justice Review.

Patrick has extensive complex business litigation and class action experience. He has both defended and prosecuted claims in federal and state courts (as well as AAA arbitrations) in the areas of Antitrust, Trademark and Patent Infringement, Unfair Competition, Business Torts, Product Liability, Non-Compete, Securities Fraud, Telecommunications, Franchise, and Health Care.

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Most recently Patrick successfully prosecuted violations of a franchise agreement in a New York Arbitration against a Fortune 500 company that resulted in an eight figure settlement for a Kansas City franchisee. Patrick also recently represented a London based company in Federal Court in California prosecuting antitrust claims and defending trademark and cyber squatting claims that also resulted in an eight figure settlement. This past year Patrick has successfully prosecuted several license violation cases for a small Kansas City software developer resulting in settlements exceeding \$1 million dollars.

Patrick has successfully tried to verdict cases in federal and state courts across the country and in several AAA and NASD arbitrations. He recently obtained a defense verdict in a \$7 million dollar business tort claim for his client in the Western District of Missouri (Aftermarket vs. Gulf). This past year Patrick was selected by his peers as a “Super Lawyer” for Missouri and Kansas and the “Best of the Bar” in Kansas City. He is a member of the Million Dollar Advocates Forum, limited to trial lawyers who have won multi-million dollar cases.

Patrick also has extensive class action experience. Patrick has been lead or co-lead counsel in three large nationwide consumer class actions that have settled over the past two years. In Lewin v. Volkswagen, Patrick successfully obtained relief totaling \$50 million dollars for one million Volkswagen customers in a deceptive trade practices class action that required Volkswagen to provide full reimbursement for past product defect repairs and to replace all window regulators on these vehicles at no cost to the customer. In Cromwell v. Sprint, Patrick obtained relief totaling \$7.2 million for over 100,000 Sprint customers who were wrongfully charged casual caller fees in violation of the Federal Communications Act. In Powers v. Cable & Wireless, Patrick obtained and order certifying a nationwide class of consumers who were overcharged PICC fees and then reached a nationwide settlement of \$7.7 million for the approximately 40,000 customers who had been wrongfully charged PICC fees.

Prior to founding Stueve Siegel Hanson LLP, Patrick represented Ford Motor Company and other Fortune 100 companies in major litigation across the country, including the defense of several class action claims involving a variety of industries.

Patrick previously served as President of the Lawyers Association of Kansas City. Patrick is a three term past president of the board of Habitat for Humanity Kansas City and the recent recipient of the first John and Mary Pritchard Founders Award from Habitat. He has served on the Visitation School Board, is the past PTO president for Visitation School, and has coached youth baseball, football, basketball, and track. Patrick has also served as an Adjunct Instructor of Trial Advocacy at the University of Kansas Law School and published articles on a wide variety of legal issues. He also is a member of the ABA’s Antitrust section and its Private Enforcement Committee.

**Norman E. Siegel** started his career as an Assistant Attorney General for the State of Missouri. In 1995, he joined the litigation department of Blackwell Sanders. In 1998, Norm joined Sonnenschein Nath & Rosenthal and was promoted to partner in 2000. Norm also served on the hiring committee of Sonnenschein. Norm received a degree in political science from Tufts University, and his J.D. from Washington University in St. Louis where he was Articles Editor of the *Journal of Urban and Contemporary Law*.

Norm recently completed prosecuting Sherman Act I and state law tort claims on behalf of Heartland Surgical Specialty Hospital, a physician owned specialty acute care hospital (Heartland Surgical Specialty Hospital v. HCA, Inc.). Heartland claimed that the dominant hospital systems in the Kansas City conspired among themselves and with the dominant managed care organizations in the region to prevent Heartland from obtaining in-network provider contracts. After 3 years of intense litigation, including winning a landmark summary judgment order, Heartland entered confidential settlements with all 11 defendants.

Norm recently won a \$20 million jury verdict for five State Farm agents who had accused State Farm of violating their agents' agreements (Kelly v. State Farm). The verdict came after a three-week trial in Independence Missouri. The agents argued that they were improperly terminated after publicly criticizing management's policies as unfair to policyholders. The agents, who collectively had over 115 years service with State Farm, spoke out following a series of substantial verdicts and settlements against State Farm that revealed improper claims handling, fraudulent use of medical utilization reviews, specification of non-OEM replacement parts, and other practices considered harmful to policyholders. Norm delivered the closing argument at trial, and the jury returned a verdict in the amount sought by the agents.

Norm also recently served as co-lead counsel in In re: Hyundai Horsepower Litigation, which netted class relief for 800,000 Hyundai owners totaling \$125 million. The case was aggressively litigated over nearly two years and was fought on numerous fronts. The nationwide litigation began in September 2002 when Hyundai announced it had overstated horsepower ratings in more than 1 million vehicles sold in the United States over a 10 year period. Norm took the lead in discovery, processing more than 80,000 pages of Hyundai documents and taking the depositions of top Hyundai management, including the CEO of Hyundai Motor America, and a corporate representative of HMA's parent company in Seoul, South Korea. Norm was also instrumental in the settlement that followed, which brought high praise from Hyundai owners across the country. Norm is still serving as lead counsel in the related horsepower litigation against Hyundai's sister company Kia Motors America.

Norm has also recently litigated an eight figure case to settlement on behalf of a franchisee against a nationwide franchisor (case name confidential), and won a jury verdict in excess of \$1.5 million for a local business (Weld v. Graggs Paint).

Norm has also obtained outstanding results in criminal cases. In October of 2001, Norm's client was acquitted of federal price fixing charges before a federal jury in Houston, Texas (U.S. v. Supreme Insulation). In late February of 2002, Norm's client, who had pleaded guilty to criminally violating the federal RICO statute, was granted probation despite the government's request for a lengthy prison term (U.S. v. McCarthy).

Norm has substantial litigation and class action experience. He currently holds leadership positions in class cases against Premcor Refining Co., H&R Block Inc., Monsanto, Solutia, and Pharmacia. He has extensive intellectual property and domain name dispute litigation experience. Norm was responsible for the intellectual property expert issues in the recently settled Formula 1 litigation. And Norm recently defended Aquila Inc., a Fortune 100 Company,

in defense of numerous securities class actions alleging that Aquila's board failed to take appropriate steps in response to a tender offer from its parent Utilicorp United. In early January 2002, a Delaware Chancery Judge denied plaintiffs' claims for immediate injunctive relief, paving the way for the successful tender offer and merger of the two companies.

As an Assistant Attorney General, Norm also served as a special prosecutor for the State, investigating and prosecuting cases involving gambling and election fraud. He also was instrumental in the investigation and civil prosecution of those accused of bilking the State's Second Injury Fund, which resulted in settlements totaling nearly \$1 million. Since entering private practice, Norm has served as special counsel for the State, having been named a Special Assistant Attorney General in 1997. In December 2003, Attorney General Jay Nixon appointed Norm to the Community Action Committee charged with overseeing The Healthcare Foundation of Kansas City, the \$500 million public health foundation created with the public health asset sale of Health Midwest. Norm served as Chairman of the CAC and now sits on the Foundation's Board of Directors.

**George A. Hanson** started his career with Blackwell Sanders in the Labor and Employment Department. He was elected partner in 1999. George served as Chair of Blackwell's Hiring Committee in 2001. George received his B.A. from Oberlin College, with high honors, in 1988, and his J.D. from the University of Minnesota, *cum laude*, in 1992. For the past four consecutive years, George has been named "Best of the Bar" by the *Kansas City Business Journal*. In 2006, George was selected by his peers as a "Super Lawyer" for Missouri and Kansas. George is also rated AV - the highest designation a lawyer can achieve from publisher Martindale-Hubbell.

George has had extensive litigation and trial experience in a broad array of business and employment cases brought in both federal and state courts across the country. In August 2005, George (along with partner Norman Siegel) won a \$20 million jury verdict for five State Farm agents who had accused State Farm of violating their agents' agreements ([Kelly v. State Farm](#)). The verdict came after a three-week trial in Independence Missouri. In 2003, George was lead trial counsel and won a \$3.5 million judgment and attorney fee award on behalf of Horizon Holdings against Genmar, the world's largest manufacturer of recreational boats, in a fraud and breach of contract case in federal court in Kansas. ([Horizon Holdings v. Genmar](#)) George has also won verdicts in a breach of contract and fraud cases tried before juries in Johnson County, Kansas and Jackson County, Missouri. In addition to trial practice, George has developed an active appellate practice and has successfully argued numerous cases before federal and state appellate panels, including federal appellate courts in the Eighth, Ninth and Tenth Circuits.

In addition to trial work, George's practice currently focuses on the representation of employees in large wage and hour class and collective actions, including workers in the financial services, meat processing, pharmaceutical and call center industries. In the past five years, George has been lead or co-lead counsel on 36 wage and hour actions filed in state and federal courts in Kansas, Missouri, California, Illinois, New York, Oregon and Washington. To date, these wage and hour cases have obtained relief in excess of \$20 million on behalf of firm clients. George is also a frequent speaker regarding wage and hour matters nationwide.

**Stueve · Siegel · Hanson**

LLP

**Todd M. McGuire** was born and raised in Elgin, Illinois. In 1996, Todd received his B.A. in Rhetoric and Communications Studies from Drake University, *summa cum laude*, where he was a member of Phi Beta Kappa, Mortar Board and Omicron Delta Kappa. Todd was also an active member of the Sigma Alpha Epsilon Fraternity. In 1999, Todd obtained his J.D., with highest honors, from Drake. Todd served as Editor in Chief of the *Drake Law Review* and was a member of the Order of the Coif.

After graduating from law school, Todd began his legal career in the Kansas City office of Sonnenschein Nath & Rosenthal, one of the largest law firms in the country, in the litigation department, specializing in antitrust, white collar criminal defense and commercial litigation. In October 2001, Todd joined Stueve Siegel Hanson LLP. In January 2005, Todd was elected to the Firm's partnership.

During the past 6 years, Todd has successfully represented a variety of clients in complex civil and criminal matters at both the trial court and appellate levels. He has both defended and prosecuted claims in the areas of Antitrust, RICO, Contract Disputes, Environmental Contamination, Business Torts, White Collar Crime, Employment Discrimination, Wage and Hour Violations, Insurance Coverage and Bad Faith, Copyright Infringement and Class Actions. Todd is admitted to practice in federal and state courts in Missouri and Kansas as well as before the United States Court of Appeals for the Tenth Circuit. Todd has represented clients in Courts across the country including New York, Texas, California, Illinois, Pennsylvania, Kansas, Missouri and Michigan.

Todd is a member of the American Bar Association, Lawyers' Association of Kansas City and Kansas City Metropolitan Bar Association. Todd has been recognized as a philanthropic leader at Drake University through membership in the President's Circle. Todd is also a member of the Steering Committee for the Donald V. Adams Leadership Institute at Drake.

**Todd E. Hilton** received his B.A. in English and Philosophy, *cum laude*, from the University of Miami in 1996, where he was President of the International Philosophy Honor Society and Vice President of the International English Honor Society. He received his J.D., with honors, from George Washington University in 1999. Todd was a member of The George Washington Journal of International Law and Economics. Todd joined Lathrop & Gage out of law school where he specialized in products liability, personal injury, wrongful death, and consumer protection litigation. Todd was recently honored by the Missouri Lawyers Weekly as having obtained the fifth highest verdict in Missouri in 2001.

# **EXHIBIT G**

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## **FIRM BIOGRAPHY**

**SEEGER WEISS LLP** is one of the nation's leading plaintiffs' law firms. The firm currently numbers over 30 attorneys operating out of offices in New York City, Newark, N.J., Philadelphia, PA, and Tulsa, Oklahoma. The firm specializes in class action and mass tort litigation, with particular emphasis in the areas of products liability, pharmaceutical injury, consumer protection, environmental and toxic tort litigation, securities fraud, qui tam, insurance litigation, pension and ERISA litigation, antitrust, and employment litigation. The firm is made up of experienced litigators, including many former state and federal prosecutors. The firm's reputation for leadership and innovation has resulted in its appointment to numerous plaintiffs' steering committees in a variety of multidistrict litigations throughout the United States, and regularly serves as court-appointed Liaison Counsel in New York and New Jersey federal and state courts.

### ***Mass Torts and Pharmaceutical Litigation.***

During the past decade, Seeger Weiss has emerged as one of the premier mass torts firms in the United States, particularly in the area of pharmaceutical torts. The firm's expertise in the area has been recognized by courts throughout the U.S. which have appointed the firm to numerous plaintiffs' steering committees in a variety of multidistrict litigations, including, among others:

**Vioxx.** Seeger Weiss plays highly prominent roles in both the federal and New Jersey state court litigations against Merck & Co. relating to the prescription arthritis drug, Vioxx. On April 8, 2005, the Honorable Eldon E. Fallon, who presides over the Vioxx multidistrict litigation in New Orleans, Louisiana, appointed firm partner, Christopher A. Seeger, as Co-Lead of the Plaintiffs' Steering Committee. Additionally, partner David R. Buchanan was appointed Co-Liaison counsel in the New Jersey state Vioxx litigation before the Honorable Carol E. Higbee, J.S.C. These appointments followed the firm's designation by Judge Higbee as Lead Counsel in a nationwide class action brought on behalf of all third-party payers, including health-maintenance organizations, managed-care organizations, employers and unions, challenging Merck's advertising practices and pricing policies for the prescription arthritis drug Vioxx. On July 29, 2005, Judge Higbee granted the firm's motion to certify a national class action, thereby creating the largest single claim to date against Merck. In her ruling, Judge Higbee recognized Seeger Weiss's prominence in Vioxx-litigation in stating that "there is probably no other law

firm as knowledgeable about Vioxx.” Mr. Seeger was lead trial counsel in the case of Humeston v. Merck which was tried in Atlantic County, New Jersey in March of 2007 and resulted in a jury verdict of compensatory and punitive damages against Merck in the amount of \$47,500,000. On November 9, 2007, the PSC and Merck jointly announced a global settlement of all Vioxx-related personal injury plaintiffs for \$4.85 billion.

**Zyprexa.** In 2004, Seeger Weiss partner Christopher Seeger was appointed by the Honorable Jack B. Weinstein of the U.S. District Court for the Eastern District of New York to serve as Liaison Counsel in the multidistrict litigation against Ely Lilly & Co. relating to the anti-psychotic drug Zyprexa. On June 7, 2005, Eli Lilly and Mr. Seeger, on behalf of the Plaintiff's Steering Committee, announced a \$700 million settlement of approximately 8,000 Zyprexa claims alleging that Zyprexa caused diabetes and diabetes-related injuries. Mr. Seeger was one of the chief architects and leading negotiators of this landmark settlement.

**Accutane.** In 2005, Seeger Weiss partners Christopher Seeger and Dave Buchanan were jointly named to serve on the Plaintiffs' Steering Committee in connection with consolidated litigation against New Jersey based Hoffman-Laroche, Inc. involving the company's acne medication, Accutane. The mass tort litigation, pending before the Honorable Carole E. Higbee in Atlantic County, involves the consolidation of claims throughout the state of New Jersey alleging severe side effects resulting from the use of Accutane, including birth defects and suicidal impulses among young adults. Mr. Buchanan led Seeger Weiss' trial teams in two trials against Hoffman-Laroche, both resulting in jury verdicts in favor of the plaintiffs in the amount of \$2,650,000 and 10,500,000, respectfully.

**Rezulin.** Seeger Weiss plays a major role in products liability actions against Pfizer and Warner Lambert involving Rezulin, a prescription drug used to treat Type II diabetes. The firm is a court-appointed member of the Executive Committee in the federal suits coordinated by the Judicial Panel on Multidistrict Litigation (“JPML”) before Judge Lewis A. Kaplan in the U.S. District Court for the Southern District of New York. The firm is also a member of the New Jersey Rezulin Steering Committee in In re: Rezulin Litigation, currently pending before the Superior Court of New Jersey, Middlesex County. The firm also successfully represented numerous individuals who commenced personal injury damage actions in various courts throughout the country, all of which claims have been resolved through confidential settlement.

Notably, in March 2003, following a six-week jury trial, the firm achieved a \$2 million verdict against Pfizer on behalf of Concepcion Morgado, a Brooklyn resident who sustained liver injury and was hospitalized for 10 days following her Rezulin use. The case was the first and only Rezulin matter to be tried in New York and represented a watershed result in the nationwide Rezulin litigation.

**PPA.** Seeger Weiss remains actively involved in litigation against numerous manufacturers of pharmaceutical products containing PPA (phenylpropanolamine), until 2000 an ingredient in virtually every over-the-counter cold medication and many appetite suppressant products. The firm serves on the Plaintiffs' Steering Committee in the federal suits consolidated by the JPML in the U.S. District Court for the Western District of Washington, and as the court-appointed Liaison Counsel in the New York PPA actions coordinated before Judge Helen

Freedman. In 2003, the firm was one of the lead negotiators of a nationwide settlement agreement with the manufacturers of Dexatrim, a leading over-the-counter appetite suppressant that until 2000 contained PPA. The settlement covers the claims of all individuals who suffered stroke-related injuries resulting from the ingestion of PPA-containing Dexatrim.

***Propulsid.*** Seeger Weiss has held national leadership positions in pharmaceutical products liability litigation against Johnson & Johnson and Janssen Pharmaceutica, Inc., the manufacturers of Propulsid—a prescription drug used to treat nocturnal heartburn. Seeger Weiss LLP is a member of the court-appointed Plaintiffs' Steering Committees in both the federal litigation, which have been consolidated by the JPML in the Eastern District of Louisiana, and in the statewide consolidated actions in Middlesex County, New Jersey. The firm served as counsel to numerous individuals who have commenced personal injury damage actions in various courts throughout the country.

***Guidant and Medtronic Heart Device Litigations.*** Seeger Weiss serves as a court-appointed member of the Plaintiffs' Steering Committee in multidistrict litigation in the U.S. District Court for the District of Minnesota against Medtronic and Guidant involving defective heart defibrillators. The heart devices at issue are surgically implanted in persons who have a type of heart disease that creates the risk of a life-threatening heart arrhythmia (abnormal rhythm). Both Medtronic and Guidant have disclosed defects in certain of their defibrillators that caused the devices to fail without warning. The firm filed one of the first actions in the U.S. against Guidant on behalf of patients.

***Other Pharmaceutical Products.*** In addition to aforementioned pharmaceutical , the firm serves or has served as counsel in numerous lawsuits in state and federal courts throughout the country brought by individuals who have suffered personal injury or death resulting from the use of various pharmaceutical products, including Baycol, Celebrex, Elidel, Ephedra, Fen-Phen, Fosamax, Lamisil, Neurontin, Serevent, Serzone and Sporanox.

### ***Consumer Litigation.***

Seeger Weiss LLP has achieved notable recoveries and currently holds leadership roles in many major consumer class action litigations throughout the country. Among the consumer class action litigations in which Seeger Weiss LLP plays or has played a major role are:

- **In re MCI Non-Subscriber Telephone Rates Litigation:** \$88 million class settlement completed in the United States District Court for the Southern District of Illinois following a transfer to that district by the JPML. Final approval of the class settlement was entered in March 2001 resolving claims brought by class members to recover overcharges arising from MCI's improper imposition of non-subscriber rates and surcharges on certain of its customers. Seeger Weiss LLP was a member of the Plaintiffs' Steering Committee and served as Chair of the Discovery Committee.

- **IBM Deskstar 75GXP Litigation:** The firm represents statewide classes of purchasers of an IBM manufactured hard disk drive, known as the Deskstar 75GXP, in 9 different state and federal courts throughout the country. The actions include claims for violations of consumer protection statutes and breach warranty resulting from IBM's commercial practices in the marketing and sale of hard disk drives that it knew were inherently unreliable and that it knew would fail at epidemically high rates. In August 2003, Judge Ronald Sabraw issued a tentative ruling certifying a California statewide class of purchasers of the 75GXP in Michael Granito, et al. v. IBM, pending in California Superior Court in Alameda County. In addition to California, cases are also pending in New Jersey, New York, Florida, Illinois, Connecticut, Ohio, Michigan, and Pennsylvania. The firm serves as co-lead counsel in these cases.
- **Lester v. Percudani, et al.:** Pending in the U.S. District Court for the Middle District of Pennsylvania. The firm represents over 170 first-time homeowners who purchased homes at inflated valuations based upon fraudulent appraisals and in violation of Federal mortgage lending guidelines. The action includes federal civil RICO and state consumer fraud claims against a group of RICO co-conspirators.
- **In re Bridgestone/Firestone, Inc. ATX, ATX II and Wilderness Tires Products Liability Litigation:** Seeger Weiss represented Firestone tire owners and purchasers of Ford Explorers equipped with certain models of Firestone tires. Plaintiffs sought damages flowing from design defects that resulted in severe, life-threatening accidents. Specifically, the consumer class sought a tire recall, recovery for the cost of tire replacement, and recovery for the diminution in the value of Ford Explorer vehicles resulting from the subject design defects. Following the filing of a number of federal class actions, the litigations were transferred for pre-trial proceedings to the Federal court in Indianapolis. In those coordinated actions, Seeger Weiss served as a member of the Plaintiffs' Law Committee. Following extensive discovery and motion practice, plaintiffs achieved a favorable nationwide settlement of their class claims.
- **Robin Sternberg v. Apple Computer, Inc. and Mikel Gordon and Pamela Parker v. Apple Computer, Inc.:** Nationwide settlement completed in California state court. Plaintiffs recovered class-wide damages resulting from Apple's deceptive advertisements for its iMac and G4 brand computers—specifically the functionality of the DVD playback feature. Seeger Weiss LLP served as co-lead counsel for the classes.
- **In re AOL Version 5.0 Software Litigation:** Pending in the United States District Court for the Southern District of Florida pursuant to a JPML consolidation order. Plaintiffs seek to recover damages for violations of federal antitrust laws, as well as for damage inflicted on their computers as a result of installing the software. Seeger Weiss LLP is a member of the proposed Plaintiffs' Steering Committee.

- Sims v. Allstate and Dorries v. State Farm: Pending in Illinois state court. The firm serves as co-counsel in these separate class actions, representing automobile policyholders seeking to recover payment for the diminution in value of their vehicles following accidents in which certain types of body damage was sustained. These cases were certified as class actions in December 2000.
- In re: Armstrong World Industries, Inc. \$7 million settlement achieved in the United States Bankruptcy Court for the District of Delaware after transfer, the firm represents the State of Connecticut, one of numerous property damage claimants which sought injunctive relief and monetary damages resulting from the presence of Armstrong-manufactured asbestos-containing resilient floor tile and sheet vinyl in residences and buildings throughout the United States.
- Workers' Compensation Litigation: The firm served as co-counsel in putative class actions brought in thirteen different states against most of the country's largest workers' compensation insurance carriers. The actions sought to recover damages on behalf of numerous corporate entities resulting from the inappropriate imposition of "residual market loads." In 2006, these cases settled for an aggregate amount of \$25 million dollars.
- In re Industrial Life Insurance Litigation: The firm represents purchasers of industrial life insurance policies who were charged race-based and discriminatory rates. The firm serves on the Plaintiffs' Steering Committee in connection with the several cases that have been sent to the Eastern District of Louisiana by the JPML.

***Securities Litigation.***

***IPO Litigation.*** In Re: Initial Public Offering Securities Litigation is one of the largest and most significant coordinated securities fraud prosecutions in United States history. In this coordinated action, Seeger Weiss serves on the Plaintiffs' Steering Committee and is Co-Chair of the Plaintiffs' Legal Committee. The lawsuit consists of 309 class actions involving IPOs marketed between 1998 and 2000. The defendants include 309 individual companies and 55 investment bank underwriter, which includes Wall Street's largest and most well-known investment houses. The class actions allege that the IPOs were manipulated by the issuers and investment banks to artificially inflate the market price of the price of the securities of those companies by inducing customers to engage in aftermarket "tie-in" agreements in exchange for IPO allocations. The cases further allege that the investment banks extracted significant undisclosed compensation from their customers in exchange for giving them the IPO allocations. The actions are coordinated before Judge Shira A. Scheindlin in the U.S. District Court for the Southern District of Manhattan. To date, the issuers have entered into a settlement, which was recently approved by Judge Scheindlin, that guarantees at least a \$1 billion recovery for class members (separate from any recoveries to be received by them as a result of government or regulatory actions) and, more recently, Judge Scheindlin has ordered that six selected focus cases, among the more than 300 coordinated cases, could proceed as class actions against the underwriter banks charged in those cases. In connection with these actions, the firm was instrumental in defeating a recusal motion brought by certain of the underwriter-defendants in 2001, and was the principal author of the electronic data preservation protocol that was entered by Judge Scheindlin in the litigation.

***Securities Fraud Class Action.*** The firm holds leadership roles in a variety of national securities class action litigations. For example, Seeger Weiss LLP served as lead counsel in an action against ATEC Group, Inc., in which the firm recovered \$1.7 million for the class in the United States District Court for the Eastern District of New York. Additionally, Seeger Weiss LLP serves as lead counsel in an action against The Miix Group, a medical malpractice insurance carrier based in New Jersey, and various of its former and current directors and officers which is pending in the District of New Jersey, and chaired the Executive Committee in a derivative action against Legato Systems, Inc. in California.

The firm also represents or has represented shareholders in a variety of securities litigations, including those against ATEC Group (E.D.N.Y.); Axonyx (S.D.N.Y.); Bell South (N.D. Ga.); Bradley Pharmaceutical (D.N.J.); Broadcom Corp. (C.D. Ca.); Buca, Inc. (D. Minn.); Cryo-Cell International, Inc. (M.D. Fl.); eConnect, Inc. (C.D. Ca.); FirstEnergy Corp. (N.D. Ohio); Friedman, Billings, Ramsey Group (S.D.N.Y.); Gander Mountain (D. Minn.); Genta (D.N.J.); officers and directors of Global Crossing (C.D. Ca.); Grand Court Lifestyles, Inc. (D.N.J.); Impath (S.D.N.Y.); IT Group Securities (W.D. Pa.); Mattel, Inc. (C.D. Ca.); Matrixx Initiatives (D. Ariz.); MBNA (D. Del.); MIIX Group (D.N.J.); Molson Coors Brewing Company (D. Del.); Mutual Benefits Corp. (S.D. Fla.); New Era of Networks, Inc. (M.D.N.C.); Nuance Communications (N.D. Ca.); NVE Corporation (D. Minn.); Omnivision Technologies, Inc. (N.D. Ca.); Par Pharmaceuticals (D.N.J.); Pixelplus, Co. (S.D.N.Y.); Procter & Gamble Co. (S.D. Ohio); Priceline.com (D. Conn.); Purchase Pro (S.D.N.Y.); Quintiles

Transnational (D. Colo.); Read Rite Corporation (N.D. Ca.); Sagent Technology (N.D. Ca.); Sina Corporation (S.D.N.Y.); The Singing Machine, Inc. (S.D. Fl.); Terayon, Inc. (C.D. Ca.); and Tesoro Petroleum Corp. (E.D. Tex); Viisage Technology, Inc. (D. Mass.), among others.

***Pension and ERISA Litigation.***

Delta MDL. Seeger Weiss served as Lead Counsel in a nationwide ERISA multidistrict litigation consolidated in Atlanta, Georgia. The firm represented active and retired Delta Air Lines pilots in a class action challenging various company pension plan amendments and practices that have caused them to forfeit some \$2 billion of accrued and vested pension benefits since 1990. These claims stemmed from a number of provisions and policies affecting, among other things, the calculation and payment of lump sums of pension benefits, the company's retroactive freeze of a benefit formula previously pegged to increases in investment performance, and automatic reductions of pension benefits of married retirees hired before 1972. In 2005, the firm achieved a class-wide settlement which included \$16 million in cash and 1 million Delta warrants.

Bell South. Seeger Weiss represents tens of thousands of aggrieved Bell South employees in a class action suit against the company and the administrators of their 401K plan, in connection with "Enron-like" breaches of fiduciary duty. These claims stem from defendants' failures to advise employees of investment diversification options and their having created a falsely optimistic outlook in Bell South's stock as a prudent investment for the plan. Defendants encouraged employees to invest their earnings in company stock at a time when the company was noting positive operating results, artificially-optimistic revenue growth, and other financial indicators that were found to be materially false, including revelations of accounting irregularities and losses from the company's risky venture into the highly-speculative Latin American wireless phone market.

***Environmental and Toxic Tort Litigation.***

Factory Hog and Poultry Farm Environmental Litigation. The firm is involved in the prosecution of various environmental and common law claims against several of the nation's largest industrial hog and poultry farm operators. These cases, pending in several jurisdictions throughout the country, were brought on behalf of public citizens, riparian property owners and other residents in the vicinity of factory hog and poultry farms who have suffered from environmental and atmospheric degradation caused by the illegal discharge of harmful toxins and other pollutants contained in the enormous quantities of hog and poultry feces and other wastes produced by the industrial farmer defendants. The firm serves as co-lead counsel in several of these actions. For example, the Firm serves as court-appointed Co-Lead Counsel in an action pending in the state District Court of Mayes County, Oklahoma pertaining to environmental damages to the Grand Lake O'Cherokees caused by the disposal of massive quantities of chicken litter by the operations of various major poultry integrators and their contract growers.

In September 2006, following a three-week trial in which firm partner, Stephen A. Weiss, served as co-lead trial counsel, a state court jury sitting in Jackson County, Missouri returned a \$4.5 million combined verdict against industrial hog producers Premium Standard Farms, Inc. and ContiGroup Companies, Inc. in favor of six neighbors of the defendants' vast farm operations in northern Missouri. The firm continues to represent over 250 remaining claimants against these defendants.

Lead Poisoning Litigation. The firm represents families and property owners living within Tar Creek, one of the nation's most notorious hazardous waste sites, situated within the former Picher Mining Field in Northeast Oklahoma. The site has ranked consistently near the top of EPA's National Priorities List for over a decade. Seeger Weiss is pursuing two types of cases on behalf of the residents: claims on behalf of seven minor children who have irreversible brain damage as a result of exposure to the lead left behind by the mining companies; and a prospective class of residents whose properties have been devalued and whose have been exposed to this toxic mining waste.

#### ***Litigation Insurance Litigation.***

During the past decade, the firm has played a pivotal role in many notable insurance market practices class actions brought against members of the life insurance industry. These nationwide suits resulted from alleged misrepresentations made in connection with the sale of certain life insurance products, including "vanishing premium" policies which, due to market-sensitive dividend projections, required customers to pay premiums on a more prolonged basis than originally expected.

In 1995, the firm was appointed as the national Policyowner Representative in Wilson v. New York Life Insurance Company sales practices litigation, the first settlement of a nationwide class action relating to the vanishing premium insurance product. Wilson involved claims brought by a class of approximately 3.2 million New York Life policyholders who suffered damages as the result of allegedly improper sales practices by the company and its agents, including the alleged failure to properly disclose the market-sensitivity of the company's premium payment projections. As Policyowner Representative, the firm served as the principal advocate on behalf of members of the class who elected to pursue individual claim relief before independent appeal boards.

Following its appointment in the New York Life litigation, the firm served as the Attorney Representative in the In re Prudential Life Insurance Sales Practices Litigation. In that role, the firm, and others serving under its auspices, represented individual class members in connection with over 53,000 separate claim arbitrations.

In addition to the New York Life and Prudential matters, the firm has served as the Policyowner Representative, Attorney Representative, or Claim Evaluator in the following insurance sales practices class actions: In re Sun Life Assurance Company of Canada Insur. Litig.; Ace Seat Cover Co., Inc. v. The Pacific Life Insur. Co.; In re Manufacturers Life Insur. Co. Premium Litig.; Roy v. Independent Order of Foresters; Murray v. Indianapolis Life Insur. Co.; In re New England Mutual Life Insur. Company Sales Practices Litigation; Manners and

Philip A. Levin v. American General Life Insur. Co.; Moody v. American General Life and Accident Insur. Co.; Garst v. The Franklin Life Insur. Co.; Lee v. US Life Corp.; In re Metropolitan Life Insur. Co. Sales Practices Litig.; Duhaime v. John Hancock Mutual Life Ins. Co.; Benacquisto v. American Express Financial Corporation; Snell v. Allianz Life Insur. Company of North America; and Wemer v. The Ohio National Life Insur. Co.

### ***Nursing Home Litigation.***

Seeger Weiss LLP has served as counsel in over two dozen personal injury and wrongful death actions on behalf of victims of severe nursing home abuses and neglect. These cases, both pending and settled, were litigated in various state courts throughout the country and have earned the firm a national reputation in the area of nursing home litigation.

### ***Personal Injury Litigation.***

The firm maintains a highly-selective docket of matters involving serious personal injury or wrongful death. Unlike many personal injury practices in which attorneys may handle hundreds of slip and fall matters at a time, the firm's philosophy is to allow its attorneys to concentrate on a smaller number of "high-end" catastrophic injury cases, thereby permitting the highest quality of attention and service available in the field.

### ***Antitrust Litigation.***

- Compact Disc Litigation. Seeger Weiss LLP is involved in nationally prominent consumer antitrust litigation. One action, In re Compact Disc Minimum Advertised Price Antitrust Litigation, which was settled favorably in the United States District Court for the District of Maine, sought damages against the wholesale sellers of pre-recorded music sold in the form of compact disc. Plaintiffs alleged that the defendants conspired to artificially inflate the retail prices of compact discs in violation of the Sherman Act.
- Monsanto YieldGuard Litigation. The firm serves as Co-Lead Counsel in a series of consolidated putative class actions against Monsanto Company, E.I. DuPont de Nemours and Company, and Pioneer Hi-Bred International currently pending before the Honorable Richard E. Webber in the U.S. District Court for the Eastern District of Missouri. These lawsuits, brought on behalf of farmers who purchased genetically-modified YieldGard corn and Roundup Ready soybean seeds, allege violations of state antitrust and unfair trade practices statutes, as well as common law claims for unjust enrichment. The claims stem from the defendants' conspiracy to fix the price of these seeds through the imposition of "technology fees," ostensibly for the purpose of allowing Monsanto to recoup its research and development costs of those seed products but which, in reality, capitalized on and exploited Monsanto's development of those seeds in order to monopolize and

"cartelize" the market for those seeds and thereby charge and collect premium prices.

***Other Commercial Litigation.***

In addition to its diverse complex litigation practice, Seeger Weiss LLP is engaged in a wide variety of commercial litigation matters representing individuals and businesses in state and federal courts throughout the country. The following are examples of such commercial actions in which the firm is involved:

- **"StarLink" Litigation.** Action completed in the United States District Court for the Northern District of Illinois pursuant to a JPML consolidation order. The JPML order consolidated and transferred to that district numerous putative statewide and nationwide class actions brought in various corn-belt states by the firm and others against Aventis Cropscience USA, the manufacturer of the "StarLink" brand of genetically altered corn. These actions were brought on behalf of certain U.S. corn growers who are seeking to recover for damages to the value of their corn crop resulting from the improper sale and marketing of the StarLink corn. The firm is one of four court-appointed co-lead counsel for the putative classes. In April 2003, Judge James B. Moran gave final approval to a \$110,000,000 settlement of the class claims.
- **Bayer Cropscience Rice Contamination MDL.** The firm represents a putative nationwide class of rice growers who are seeking to recover for damages to the value of their rice crop resulting from contamination by LL601, a variety of long-grain rice that has been genetically modified with a bacterial gene trait that causes the rice grown from that seed to produce a protein that makes the crop resistant to glufosinate – the active ingredient in Liberty® Herbicide, another Bayer product. This "glufosinate-tolerant" trait allows growers to spray Liberty® herbicide over the entire crop, killing all weeds without risking any damage to the rice crop. This case, and others similar, are consolidated in a multidistrict litigation now pending before the Honorable Catherine D. Perry of the U.S. District Court for the Eastern District of Missouri.
- **Educational Testing Services MDL.** *In re: ETS Praxis Principles of Learning and Teaching: Grades 7-12 Litigation* is a consolidated national class action on behalf of more than 4100 prospective teachers who ETS negligently and wrongfully reported failing scores on the Praxis Principles of Learning and Teaching test for grades 7 through 12 (the "PPLT" test) during the period from January 2003 through April 2004. The PPLT is a test that is required in many states in order for a teacher to obtain their teaching certification. In December 2004, the various class actions filed around the country were transferred to Judge Sarah Vance of the United States District Court for the Eastern District of Louisiana. Judge Vance has since appointed Seeger Weiss LLP to the position of State Court Litigation Liaison Counsel.

- HMO Litigation. The firm is counsel to individual doctor-members of the Connecticut State Medical Society (“CSMS”) and the Medical Society of the State of New York (“MSSNY”) in connection with various putative statewide class actions filed in Connecticut and New York state courts, respectively against several national health management organizations (HMOs). The class members are seeking damages resulting from the defendants’ improper, unfair and deceptive practices designed to deny, impede or delay lawful reimbursement to CSMS and MSSNY physicians who rendered necessary healthcare services to members of the HMO managed care plans.
- Automobile Dealership Warranty Litigation: The firm represents dozens of franchised automobile dealerships located throughout New York State in separate actions against the “Big Three” automobile manufacturers — Ford, General Motors, and DaimlerChrysler. These actions are pending in federal court in New York and are based on the manufacturers’ failure to comply with the New York State Vehicle & Traffic Law § 465. These actions assert claims that in violation of New York State statute and the franchise agreement that governs the relationship between the dealerships and the factories, the manufacturers have failed to adequately reimburse the dealerships for parts used in performing repairs pursuant to the manufacturers’ warranties. In addition to the three federal court actions, the firm also represents close to a dozen franchised Chrysler dealerships in arbitrations pending before the American Arbitration Associations asserting the same claims.

**SEEEGER WEISS LLP**  
**Attorney Biographies**

**PARTNERS**

**CHRISTOPHER A. SEEGER.** Position: Member. Born New York, N.Y., April 14, 1960. Admitted: 1990, New Jersey; 1991, New York; 1992, U.S. District Court, Southern District of New York and U.S. District Court, District of New Jersey; 2000, U.S. District Court, Eastern District of New York. Education: Hunter College of the City University of New York (B.A., summa cum laude, 1987); Benjamin N. Cardozo School of Law (J.D., magna cum laude, 1990). Honors: Managing Editor, Benjamin N. Cardozo Law Review. Author: "The Fixed Price Preemptive Right in the Community Land Trust Lease," 11 Cardozo Law Review 471, 1990; "Developing Assisted Living Facilities," New York Real Estate Law Reporter, Volume XII, Number 10, August 1998. Lecturer, "The Use of ADR in Class Actions and Mass Torts," New York University School of Continuing and Professional Studies, October 13, 2000. Member: Board of Advisors, New York Real Estate Law Reporter; Annual Fund Committee, 1999 -- . Director: American Friends of Rabin Medical Center, Inc.; Benjamin N. Cardozo School of Law, 1999-2000. Co-Chair, Cardozo Law School Alumni Annual Fund, 1998-2000. Member: The Association of the Bar of the City of New York; New Jersey State Bar Association. Practice Areas: Consumer Fraud; Products Liability; Antitrust; Insurance; Class Actions; Mass Torts.

**STEPHEN A. WEISS.** Position: Member. Born New York, N.Y., December 5, 1964. Admitted: 1991, New York and U.S. District Court, Southern and Eastern Districts of New York. Education: Brandeis University (B.A., 1986); Benjamin N. Cardozo School of Law (J.D., 1990). Honors: Business Editor, Cardozo Law Review, 1989-1990. Director, Benjamin N. Cardozo School of Law, Yeshiva University, 1999-current; Member, Development, Strategic Planning Committee, Membership Committee. Chair, Cardozo Alumni Annual Fund, 1998-2000. Author: "Environmental Liability Disclosure Under the Federal Securities Law," Law Education Institute, Inc., 1998; "Liability Issues and Recent Case Law Developments Under CERCLA, New Environmental Issues of Liabilities of Government Agencies & Government Contractors," Federal Publications, Inc., Chapter 4, 1995; "New York Proposes Legislation to Restrict Shareholder Derivative Suits," Insights, Vol. 8, No. 3, p. 24, 1994; "Suretyship as Adequate Protection Under Section 361 of the Bankruptcy Code," Cardozo Law Review, Vol. 12, p. 285, 1990. Awards: International Humanitarian Achievement Award, Shaare Zedek Medical Center, 2002. Member: Association of Trial Lawyers of America; American Bar Association. Practice Areas: Complex Litigation, including Antitrust, Consumer, Employment, Environmental, Insurance, Products Liability, Pharmaceutical and Securities Litigation.

**DAVID R. BUCHANAN.** Position: Member. Born July 19, 1967. Admitted: 1993, New Jersey and U.S. District Court, District of New Jersey; 1994, New York and U.S. District Court, Southern District of New York; 1999, U.S. District Court, Eastern District of New York. Education: University of Delaware (B.S., 1990); Benjamin N. Cardozo Law School (J.D., magna cum laude, 1993). Honors: Samuel Belkin Scholar, 1993. Member, 1991-1993 and Administrative Editor, 1992-1993, Cardozo Law Review. Member: American Bar Association (Member, Sections on: Litigation; Intellectual Property). Practice Areas: Complex and Mass Tort Litigation, including Antitrust, Consumer, Environmental, Insurance, Intellectual Property, Pharmaceutical, Products Liability, and Securities Litigation.

**DIOGENES P. KEKATOS.** Position: Member. Born New York, New York, November 29, 1958. Admitted: New York 1984; U.S. District Court, Southern and Eastern Districts of New York, 1984; U.S. Court of Appeals for the Second Circuit, 1985; U.S. Supreme Court, 1987. Education: Columbia College, Columbia University (B.A., 1980); Brooklyn Law School (J.D., 1983). Experience: Associate, 1983-84, Meltzer, Fishman, Madigan & Campbell; Assistant Regional Counsel, 1984-86, U.S. Department of Health and Human Services; Special Assistant United States Attorney, 1986-88, Southern District of New York; Assistant United States Attorney, 1988-2000, Southern District of New York; Chief, Financial Litigation Unit, 1988-90 and Chief, Immigration Unit, 1990-2000. Has argued some 130 appeals and motions in U.S. Court of Appeals for the Second Circuit, including successful *en banc* rehearing. Has argued numerous cases resulting in published opinions. Practice Areas: Federal Civil Litigation; Complex Litigation; Federal Appellate Litigation.

**MOSHE HORN.** Position: Member. Admitted: New York, New Jersey. Education: George Washington University (B.A., 1989); Benjamin N. Cardozo School of Law (1993). Experience: Assistant District Attorney, New York County, 1993-2002 (held numerous supervisory positions and tried 50 jury cases); Senior Associate, Kaye Scholer LLP, 2002-2004.

**JONATHAN SHUB.** Position: Member. Born Philadelphia, PA., November 28, 1961. Admitted: 1988, Pennsylvania; 1989, Dist. of Columbia; 1995, E.D. of Pennsylvania; 2002, E.D. of Michigan; 2005, California; 2006, N.D. of California and C.D. of California. Education: American University (B.A. 1983); Delaware Law School of Widener University (J.D., *cum laude*, 1988). Honors: Articles Editor, Law Review, Delaware Journal of Corporate Law, 1987-88; "Best Student Article Award," 1988. Author: "Shareholder Rights Plans – Do They Render Shareholders Defenseless Against Their Own Management," 12 Del. J. Corp. L. 991 (1997); "Distinguishing Individual from Derivative Claims in the Context of Battles for Corporate Control," 13 Del. J. Corp. L. 579 (1998); Co-author with Harvey L. Pitt: "Once Again, the Court Fails to Rein in RICO," Legal Times, at 31 (April 27, 1992); "Failed One-Share, One Vote Rule Let SEC Intrude in Boardroom," National Law Journal, at 32 (October 8, 1990). Wolcott Fellow Law Clerk to the Hon. Joseph T. Walsh, Delaware Supreme Court, 1988 Academic Year. Member: American Trial Lawyers Association, American Bar Association.

Practice Areas: Complex Litigation, including Antitrust, Consumer, Employment, Environmental, Insurance, Products Liability, Pharmaceutical and Securities Litigation.

### **COUNSEL**

**MICHAEL L. ROSENBERG.** Position: Counsel. Born New York, New York May 25, 1964. Admitted: New Jersey 1989; U.S. District Court, District of New Jersey 1989; New York 1990. Education: Rutgers-Camden School of Law (J.D., 1989), University of Delaware (B.A. 1986). Practice Areas: Complex and Insurance Litigation.

**MARC S. ALBERT.** Position: Counsel. Born Commack, New York, September 25, 1970. Admitted: 1996, New York and U.S. District Court, Southern and Eastern Districts of New York Education: University of Wisconsin-Madison (B.A., 1992); New York Law School (J.D., 1995). Member: New York State Trial Lawyers Association. Practice Areas: Catastrophic Personal Injury and Medical Malpractice Litigation.

**DONALD R. BRADFORD.** Position: Counsel. Born Guymon, Oklahoma, January 3, 1945; admitted to bar, 1974, Oklahoma; U.S. Court of Appeals, Fifth and Tenth Circuits; 1996, U.S. Tax Court; registered to practice before the U.S. Patent and Trademark Office. (Not admitted in New York). Education: University of Texas (B.S.E.E., 1967); University of Tulsa College of Law (J.D., 1974). Member, Order of the Curule Chair. Member, Tulsa Law Journal, 1973-1974. Law Clerk to Hon. Joseph W. Morris, Chief Judge, U.S. District Court, Eastern District of Oklahoma, 1974-1976. Member: Tulsa County (Chairman, Mineral Law Section, 1991-1992) and Oklahoma Bar Associations.

**JAMES A. O'BRIEN III.** Position: Associate. Born Boston, Massachusetts, December 11, 1961. Admitted: New York, 2000; Massachusetts, 1988; U.S. District Court, District of Massachusetts, 1991. Education: University of Massachusetts at Amherst (B.A., 1984); New England School of Law (J.D., 1988). Experience: Attorney Advisor, U.S. Department of Labor, 1988-89; Assistant District Counsel, U.S. Immigration and Naturalization Service, 1990; Special Assistant United States Attorney, 1990-2001, Southern District of New York. Practice Areas: Federal Civil Litigation; Federal Appellate Litigation.

### **ASSOCIATES**

**RICK BARRECA:** Position: Associate. Born Passaic, New Jersey, 1970. Admitted: New York and New Jersey, 1999. **Education:** Montclair State University (B.A., 1992); Touro College Jacob D. Fuchsberg Law Center (J.D., 1998). **Practice Areas:** Pharmaceutical; Mass Torts; Securities Fraud; Investment Fraud; Consumer Litigation; Complex Commercial Litigation.

**TERRIANNE BENEDETTO.** Position: Associate. Born Philadelphia, Pennsylvania, March 28, 1964. Admitted: 1990, Pennsylvania; 1991, New Jersey, U.S. District Courts, District of New Jersey, Eastern District of Pennsylvania; 1993, U.S. District Court, Western District of Wisconsin. Education: Franklin & Marshall College (B.A., Mathematics, 1986); Villanova University School of Law (J.D., 1990). Honors: Villanova Law Review, 1989-1990. Author: "Database Technology: A Valuable Tool for Defeating Class Action Certification," Pennsylvania Law Weekly, Vol. XX, No. 47, p.13 (Nov. 24, 1997), Mealey's Litigation Report: Lead, Vol. 7, #14 (Apr. 24, 1998). Clerkships: Law Clerk to The Honorable Jacob Kalish, Commonwealth Court of Pennsylvania, 1989; Law Clerk to The Honorable William W. Vogel, President Judge, Montgomery County Court of Common Pleas, 1990-1991. Member: Pennsylvania Association for Justice; Philadelphia Trial Lawyers Association; Philadelphia Bar Association.

**KEVIN G. BOISVERT.** Position: Associate. Born Muncie, Indiana, December 13, 1969. Admitted: 1996, Rhode Island; 1999, New Jersey. Education: Roanoke College (B.A., 1992); University of Dayton School of Law (J.D., 1995). Member: Rhode Island State Bar Association.

**PATRICIA D. CODEY.** Position: Associate. Born Orange, New Jersey, November 8, 1955. Admitted: 1989 New Jersey; U.S. District Court, District of New Jersey. Education: College of Saint Elizabeth (B.A., 1977); City University of New York Law School (J.D. 1988). Experience: Law Clerk to the Honorable Michael J. Degnan, 1988-89.

**SINDHU SUSAN DANIEL.** Position: Associate. Born Manama, Bahrain. Admitted: New Jersey, Pennsylvania, Michigan, 1994. **Education:** Temple University (B.A., 1991; J.D., 1994). **Practice Areas:** Pharmaceutical Injury.

**DENNIS M. GEIER.** Position: Associate. Born: Belleville, New Jersey, June 12, 1981. Admitted: 2006, New Jersey and U.S. District Court of New Jersey; 2007, New York. Education: Syracuse University, S.I. Newhouse School of Public Communications (B.S., 2003); Seton Hall University School of Law (J.D., 2006). Honors: Faculty Scholar.

**SCOTT A. GEORGE.** Position: Associate. Born Philadelphia, Pennsylvania, August 11, 1966. Admitted: 1998, Pennsylvania, New Jersey, Eastern District of Pennsylvania, District of New Jersey, Third Circuit Court of Appeals. Education: Stevens Institute of Technology, Goddard College (B.A. 1989), Temple University School of Law (J.D. *cum laude* 1998). Honors: Moot Court Honor Society. Member: American Association for Justice, Pennsylvania Bar Association.

**JEFFREY S. GRAND.** Position: Associate. Born Tallahassee, Florida, January 15, 1966. Admitted: 2003, New York and U.S. District Court, Southern and

Eastern Districts of New York. Education: New York School of Visual Arts (B.F.A., 1990); Benjamin N. Cardozo School of Law (J.D., Order of the Coif, 2002). Honors: Felix Frankfurter Award; Executive Editor, Cardozo Law Review, 2001-02; Treasurer, Cardozo Chapter of the American Constitution Society. Author: "The Bleeding of America: Privacy and the DNA Dragnet," 23 Cardozo Law Review 2277 (2002). Member: American Bar Association; New York State Bar Association. Prior to joining Seeger Weiss LLP,

**LAURENCE V. NASSIF.** Position: Associate. Born Los Angeles, California, July 11, 1972. Admitted: New York, 2000; New Jersey 1999. Education: California State University, Northridge (B.A., 1995); Benjamin N. Cardozo School of Law (J.D., 1998).

**ANDREA MERCEDES PI-SUNYER.** Position: Associate. Born: Boston, Massachusetts, 1965; Admitted: New York, 1996. **Education:** Oberlin College (B.A., 1987); Northeastern University School of Law (J.D., 1994). **Practice Areas:** Pharmaceutical Injury.

**DENISE K. STEWART.** Position: Associate. Born Red Bank, New Jersey, June 20, 1950. Admitted: 1982, Florida; 1990 New Jersey and U.S. District Court, District of New Jersey. Education: Monmouth University (B.A., 1972); University of Miami School of Law (J.D., 1982).

**CHRISTOPHER M. VAN DE KIEFT.** Position: Associate. Born Bronx, New York November 29, 1968. Admitted 2003 New York, 2005 U.S. Southern and Eastern District Court. Education: Johns Hopkins University (B.A. 1990); Benjamin N. Cardozo School of Law (J.D. 2002). Honors: Dr. Samuel Belkin Award; Editor-in-Chief, Cardozo Law Review. Author: "Uncertain Risk: The United States Military and the International Criminal Court, 23 Cardozo Law Review (2002). Member: American Bar Association, New York State Bar Association, New York County Lawyers Association.

**DANIEL R. WASP.** Position: Associate. Born Queens, New York 1967. Admitted: 1999 New York, 2002 New Jersey and U.S. District Court District of New Jersey. Education: New York Institute of Technology (B.S., magna cum laude, 1994); St. John's University School of Law (JD, cum laude, 1998). U.S. Navy 1985-1991, MM2(SW). Member ATLA-NJ, NYSTLA, NESA, Mensa.

# **EXHIBIT H**

**ANALYSIS OF TRANSACTIONS IN AUCTION RATE SECURITIES PURCHASED FROM TD AMERITRADE**

CLASS PERIOD PURCHASES				POST-CLASS PERIOD REDEMPTIONS				ILLIQUID SHARES AS OF 5/19/2008			
Date Purchased	Shared Purchased	Price Per Share	Amount Purchased	Date Redeemed	Shares Redeemed	Price Per Share	Amount Redeemed	Illiiquid Shares	Price Per Share	Illiiquid Amount	
<b>Jones Living Trust Dated 1/14/2002 (Janet Jones, Trustee)</b>											
Nuveen Multi-Strategy Income & Growth Fund 2	9/28/2007	34	\$25,000	\$850,000	5/12/2008	15	\$25,000	\$375,000	19	\$25,000	\$475,000
Nuveen Multi-Strategy Income & Growth Fund 2	11/16/2007	37	\$25,000	\$925,000	5/12/2008	14	\$25,000	\$350,000	23	\$25,000	\$575,000
Nuveen Quality Preferred Income Fund	11/29/2007	7	\$25,000	\$175,000					7	\$25,000	\$175,000
		78		\$1,950,000		29		\$725,000	49		\$1,225,000
<b>Michael Jones</b>											
Nuveen Multi-Strategy Income & Growth Fund 2	11/5/2007	16	\$25,000	\$400,000	5/6/2008	4	\$25,000	\$100,000	12	\$25,000	\$300,000
Nuveen Multi-Strategy Income & Growth Fund 2	11/15/2007	2	\$25,000	\$50,000	5/9/2008	1	\$25,000	\$25,000	1	\$25,000	\$25,000
		18		\$450,000		5		\$125,000	13		\$325,000
<b>Michael McKay</b>											
Nuveen Premier Municipal Income Fund Series TH	8/16/2007	18	\$25,000	\$450,000					18	\$25,000	\$450,000
Nuveen Investment Quality Municipal Fund Inc.	8/17/2007	24	\$25,000	\$600,000					24	\$25,000	\$600,000
Preferred Series F											
Nuveen Select Quality Municipal Fund Preferred Series T	1/15/2008	4	\$25,000	\$100,000					4	\$25,000	\$100,000
Nuveen Quality Income Municipal Fund Preferred Series T	1/15/2008	4	\$25,000	\$100,000					4	\$25,000	\$100,000
Nuveen Select Quality Municipal Fund Preferred Series F	2/1/2008	10	\$25,000	\$250,000					10	\$25,000	\$250,000
Nuveen Investment Quality Municipal Fund Inc.	2/1/2008	10	\$25,000	\$250,000					10	\$25,000	\$250,000
Preferred Series F		70		\$1,750,000		0		\$0	70		\$1,750,000

**ANALYSIS OF TRANSACTIONS IN AUCTION RATE SECURITIES PURCHASED FROM TD AMERITRADE**

CLASS PERIOD PURCHASES				POST-CLASS PERIOD REDEMPTIONS				ILLIQUID SHARES AS OF 5/19/2008		
Date Purchased	Shared Purchased	Price Per Share	Amount Purchased	Date Redeemed	Shares Redeemed	Price Per Share	Amount Redeemed	Illiiquid Shares	Price Per Share	Illiiquid Amount
<b>Totals for Jones Living Trust Dated 1/14/2002 (Janet Jones, Trustee), Michael Jones, and Michael McKay</b>										
	<u>166</u>		<u>\$4,150,000</u>		<u>34</u>		<u>\$850,000</u>		<u>132</u>	<u>\$3,300,000</u>